proposed, we shall have no defense whatever against the bill which a Member of the House wishes to have enacted, in order to have Federal funds used for the construction of a graving dock. The Senator from Georgia has expressed a desire to have a graving dock built in his State, if this floating drydock is authorized. Not only are there many others who would wish to have a graving dock built, but the proponent and the chief beneficiary of the pending bill admitted before the committee that he did not want to confine the application of the bill to a drydock; he said the application of the bill should be extended, so that if he needed a "lathe or a drill or what have you" for the construction of a ship, he would have the right to have the Government to get it for him.

Mr. President, this bill is simply a means of having the Government of the United States underwrite the construction of shore facilities for the repair and construction of ships, rather than the construction of vessels themselves. I am opposed to that. I do not believe any justification exists for extending and distorting the mortgage insurance program to cover shore facilities.

The PRESIDING OFFICER. The time under the control of the Senator from Maryland has expired.

Mr. MANSFIELD. Mr. President, has all available time expired?

The PRESIDING OFFICER. It has.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SMATHERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

All time available on the bill has expired.

Senate bill 107 has been read the third time. The question now is, Shall the bill pass?

On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The Chief Clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from New Mexico [Mr. CHAVEZ], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. GORE], the Senator from Rhode Island [Mr. GREEN], the Senator from Utah [Mr. MOSS], the Senator from West Virginia [Mr. RANDOLPH], and the Senator from New Jersey [Mr. WILLIAMS] are absent on official business.

The Senator from Connecticut [Mr. DODD] and the Senator from Wyoming [Mr. O'MAHONEY] are absent because of illness.

I further announce that if present and voting, the Senator from New Mexico [Mr. CHAVEZ], the Senator from Rhode Island [Mr. GREEN], the Senator from Utah [Mr. MOSS], the Senator from Wyoming [Mr. O'MAHONEY], and the Senator from West Virginia [Mr. RANDOLPH] would each vote "yea."

The result was announced—yeas 48, nays 41, as follows:

YEAS—48

Anderson	Hennings	Magnuson
Bartlett	Hill	Mansfield
Bible	Holland	Monroney
Byrd, W. Va.	Humphrey	Morse
Cannon	Jackson	Murray
Carroll	Johnson, Tex.	Muskie
Church	Johnston, S.C.	Neuberger
Clark	Jordan	Pastore
Eastland	Kefauver	Russell
Engle	Kerr	Smathers
Ervin	Langer	Sparkman
Freaf	Long	Stennis
Gruening	McCarthy	Symington
Hart	McClellan	Talmadge
Hartke	McGee	Thurmond
Hayden	McNamara	Yarborough

NAYS—41

Aiken	Curtis	Morton
Allott	Dirksen	Mundt
Beall	Douglas	Prouty
Bennett	Dworshak	Proxmire
Bridges	Ellender	Robertson
Bush	Goldwater	Saltonstall
Butler	Hickenlooper	Schoeppel
Byrd, Va.	Hruska	Scott
Capehart	Javits	Smith
Carlson	Keating	Wiley
Case, N.J.	Kennedy	Williams, Del.
Case, S. Dak.	Kuchel	Young, N. Dak.
Cooper	Lausche	Young, Ohio
Cotton	Martin	

NOT VOTING—9

Chavez	Gore	O'Mahoney
Dodd	Green	Randolph
Fulbright	Moss	Williams, N.J.

So the bill (S. 107) was passed.

Mr. SMATHERS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF COMMUNICATIONS ACT TO PROVIDE EQUAL TIME TO CANDIDATES FOR PUBLIC OFFICE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 560, S. 2424.

The PRESIDING OFFICER (Mr. MCCARTHY in the chair). The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 2424) to amend the Communications Act of 1934 in order to provide that the equal-time provisions with respect to candidates for public office shall not apply to news and other similar programs.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. What is the status of the time limitation on this particular measure?

The PRESIDING OFFICER. There is one-half hour on each amendment, the time to be equally divided, and 2 hours on the bill.

Mr. MANSFIELD. Two hours on the bill, and a half hour on each amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. I thank the Presiding Officer.

Mr. PASTORE. Mr. President, I yield 5 minutes to the Senator from Alaska from the time on the bill.

THE FLAG IN THE SENATE CHAMBER

Mr. GRUENING. Mr. President, a few minutes ago I called attention to the astounding fact that the American flag behind the rostrum in this Senate Chamber contains only 48 stars. On the 4th of July last, following the admission of Alaska to the Union, a 49th star was added to the flag, and the 49-star flag became the official design of Old Glory.

On July 4th last the new flag was raised all over the Nation amid cheers and rejoicing. A 49-star flag was raised over each end of this Capitol. Another 49-star flag was raised at 1 minute after midnight at Fort McHenry, the scene of the heroic defense which inspired the national anthem, "The Star-Spangled Banner."

Another 49-star flag which had flown briefly over the Capitol of this Nation was carried to Philadelphia where it was raised with appropriate and solemn ceremenies at historic Independence Hall.

But here in the Senate Chamber no such ceremony—or change without ceremony—took place.

After calling attention a few minutes ago to the obsoleteness of the flag in the Senate Chamber—the only flag in this Chamber—I asked Mr. Joseph C. Duke, the excellent Sergeant at Arms of the Senate, to explain the reason for the continued presence in this Chamber of this anachronistic design of our flag.

Sergeant at Arms Duke explained to me that this flag cost $175 and that with the admission of Hawaii—there would shortly be a 50-star flag and that it would be economical to await the 50-star flag.

Mr. President, I respect and applaud the desire of Joe Duke to be economical with public funds—economy with the taxpayer's money is a most praiseworthy objective which we in the Senate not only preach, but in this Congress, in particular, have practiced.

But I must register an emphatic dissent from this particular economy. Alaska is entitled to a full year's display of the 49-star flag which Alaska's admission to the Union brought into being.

It is true that Hawaii is voting today, is today electing its first State organization, its first State Governor, its first two U.S. Senators, and its first Representative in the House. But the 50-star flag which will signalize the admission of Hawaii, the paradise of the Pacific, into the Union will not become official till the 4th of July 1960.

Shall the Senate of the United States consent to the continuation in this Chamber for nearly a whole year of this

obsolete flag—a flag which fails to recognize the extension of the Union to America's farthest west and farthest north, a flag which fails to signalize the extension of the frontier of democracy to within naked eyeview of the totalitarian tyranny which is the antithesis of everything which our flag symbolizes—whatever its number of stars?

Mr. President, I hereby register my emphatic protest, and request that the necessary funds be made available to our able and conscientious Sergeant at Arms so that the newest Old Glory may adorn this Chamber.

If these funds are not available I shall be happy and proud myself to pay for the purchase of the 49-star flag which properly belongs here in the Senate of the United States.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. GRUENING. I am glad to yield to the Senator from Arizona.

Mr. GOLDWATER. I point out to my good friend from Alaska that there will be 48 stars in the circle above us, and I think we should add two to that number also.

Mr. GRUENING. I thank the Senator from Arizona.

AMENDMENT OF COMMUNICATIONS ACT TO PROVIDE EQUAL TIME TO CANDIDATES FOR PUBLIC OFFICE

The Senate resumed the consideration of the bill (S. 2424) to amend the Communications Act of 1934 in order to provide that equal-time provisions with respect to candidates for public office shall not apply to news and other similar programs.

Mr. PASTORE. Mr. President, section 315 of the Communications Act of 1934, as amended, presently provides that if a licensee permits a legally qualified candidate for public office to use his broadcast station, he shall afford equal opportunities to all other such candidates for that office. It provides further that the licensee does not have the power of censorship over the material broadcast and that no obligation is imposed by the licensee to allow the use of his station by any such candidate.

A careful examination of the legislative history of section 315 of the Communications Act and its predecessor, section 18 of the Radio Act of 1927, reveals clearly that the fundamental objective of that statute was to require any licensee who had allowed any legally qualified candidate to use his facilities to afford equal opportunity to all other candidates for that same office.

Its basic purpose was to require equal treatment by broadcasters of all candidates for a particular public office once the broadcaster made a facility available to any one of the candidates. This was a sound principle and the committee reemphasizes its belief in that objective. The equal time provision of section 315 (a) was designed to assure a legally qualified candidate that he will not be able to acquire unfair advantage over an opponent through favoritism of a station in selling or donating time or in scheduling political broadcasts. If the number of radio and television stations were not limited by available frequencies, the committee would have no hesitation in removing completely the present provision regarding equal time and urge the right of each broadcaster to follow his own conscience in the presentation of candidates on the air. However, broadcast frequencies are limited and, therefore, they have been necessarily considered a public trust.

Every licensee who is fortunate in obtaining a license is mandated to operate in the public interest and has assumed the obligation of presenting important public questions fairly and without bias.

Under the present rigid Federal Communications Commission interpretation of section 315, a broadcaster cannot devote 1 minute to a legally qualified candidate participating in any program whatever the subject, be it atomic energy, the need for adequate defense, a road or bridge ribbon-cutting event, dedicating a post office, or opening a charity drive, without being compelled to make available a minute to every other legally qualified candidate to the same office.

S. 2424 would exempt from the provisions of section 315(a) news, news interviews, news documentaries, on-the-spot coverage of news events, or panel discussion programs.

In removing these programs in which legally qualified candidates are seen or heard from the scope of section 315 it places them in the same category as all other news, news interviews, news documentaries, on-the-spot coverage of news events, and panel discussion programs.

The proposal affords the licensee freedom to exercise his judgment in the handling of this type program despite the fact that a legally qualified candidate may appear or be heard on such a broadcast.

In establishing this category of exemptions from section 315, the committee was aware of the opportunity it affords a broadcaster to feature a favorite candidate. This is a risk the committee feels that is outweighed by the substantial benefits the public will receive through the full use of this dynamic media in political campaigns. Every reasonable safeguard must and will be established to prevent any partisan broadcaster from abusing this new right.

The committee has faith in the maturity of our broadcasters and their recognition of an obligation to serve the public interest. Nevertheless to assure prompt and decisive action this legislation provides for a reexamination of the entire problem as to ascertain whether the bill herein reported has proved to be effective and practicable. The FCC is also directed to report annually all information and data used by it in determining questions arising from this legislation.

The committee feels that the proposal contained in this legislation is in the public interest and worth the risk being taken when contrasted with the alternative which is a blackout in the presentation of legally qualified candidates in the news type programs. Broadcasting journalism is a way of our life as is reporting through newspapers and magazines. The public has become dependent upon it and is entitled to it. This must be recognized.

The full use of this dynamic media should not be shackled nor should it be abused. The committee feels that the proposal set forth herein is workable and fair. The public interest should benefit from it. If not, adequate opportunity to remedy it is available.

The Congress created the FCC as an expert agency to administer the Communications Act of 1934. As experts in the field of radio and television, the Commission has gained a workable knowledge of the type of programs offered by the broadcasters in the field of news, and related fields. Based on this knowledge and other information that it is in a position to develop, the Commission can set down some definite guidelines through rules and regulations and wherever possible by interpretations.

Concern has been expressed that the proposed exemptions will result in a change in procedure on the part of the Commission in disposing of complaints that may be filed under section 315.

The committee feels that the Commission should adhere to its present procedure as closely as possible and to process every complaint as quickly and expeditiously as the facts in each situation will permit. The committee appreciates that each of a series of events widely separated may not spell out abuse but when viewed as a whole at a later date may bring a different result.

Fear has also been expressed that the adoption of legislation creating special categories of exemptions from section 315 would tend to weaken the present requirements of fair treatment of public issues. The committee desires to make it crystal clear that the discretion provided by this legislation shall not exempt licensees who broadcast such news, news interviews, news documentaries, on-the-spot coverage of news events, or panel discussion programs from objective presentation thereof in the public interest.

In recommending this legislation, the committee does not diminish or affect in any way Federal Communications Commission policy or existing law which holds that a licensee's statutory obligation to serve the public interest is to include the broad encompassing duty of providing a fair cross-section of opinion in the station's coverage of public affairs and matters of public controversy. This standard of fairness applies to political broadcasts not coming within the coverage of section 315 such as speeches by spokesmen for candidates as distinguished from the candidates themselves. The committee agrees with the views expressed in the Department of Justice letter to Senator WARREN G. MAGNUSON dated July 1, 1959, wherein it is stated that the principle of fairness—

Would automatically be applicable to any additional types of political programing which might be exempt from the coverage of section 315.

Inclusion of such language in any amendment to section 315 should not be construed as limiting the station's obligation to present conflicting views on public issues to the political situations covered in section 315 of the act—those exempted via this legislation.

Of course, the prohibitions against censorship as presently provided in section 315(a) would not apply to the exempted programs provided by this legislation. The responsibility of the broadcaster will be the same as it is for any program other than those declared to be a use of facilities under section 315(a).

The committee is not unmindful that the class of programs being exempted from the equal time requirements would offer a temptation as well as an opportunity for a broadcaster to push his favorite candidate and to exclude others. That is a danger.

The committee clearly recognizes this to be a definite obstacle but feels that the alternative to standing pat and maintaining status quo could lead to a virtual blackout in the presentation of candidates on the news-type programs. This would not, in the opinion of the committee, serve the public interest. [illegible]nformed public is indispensable for the continuance of an alert and knowledgeable democratic society. The public should not be deprived of the benefits that flow from this dynamic form of communications during the critical times of a political campaign. The public benefits are so great that they outweigh the risk that may result from the favoritism that may be shown by some partisan broadcasters.

In any event, the committee is cognizant of this pitfall and has, therefore, included in this bill two provisions which serve as a warning to all broadcasters that the discretion being granted them and the manner in which they employ it will be carefully screened.

The committee has recommended that Congress reexamine this legislation at or before the end of a 3-year period in order to ascertain whether the remedy provided herein has proved to be effec[illegible] and practicable. And to assist the [illegible]gress in this reexamination, the Federal Communications Commission is required to make a report annually setting forth:

First. The information and data used by it in determining questions arising from or connected with this bill; and

Second. To make such recommendations as the Federal Communications Commission deems necessary to protect the public interest and to assure equal treatment of all legally qualified candidates for public office.

The committee proposes to keep a close liaison with the Commission with regard to this problem.

It is my judgment that this legislation will serve the public interest.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. DOUGLAS. I am very glad the Senator from Rhode Island recognizes the fact that discrimination by radio and television stations could be exercised under the terms of his amendment. I should like to ask whether he proposes to do anything about it, and to reduce the possibility of such discrimination in favor of one candidate or one party.

Mr. PASTORE. We are doing several things about it.

First, we have restricted the exemption to well defined categories. Naturally there is an inherent risk, even though it may be slight, that there might be instances of abuse here and there, but the thing to bear in mind is that we have added two paragraphs to this legislation, one of which means that the committee will remain on top of the entire problem by keeping it under constant review for the next 3 years.

Also we have mandated the Commission to make an annual report to us of every instance in which complaints are made, with the added safeguard that the Commission shall make specific recommendations.

Mr. DOUGLAS. Mr. President, will the Senator further yield?

Mr. PASTORE. I yield.

Mr. DOUGLAS. Of course, it is true that television and radio require large investments of money. The stations are generally rather profitable enterprises. The owners of radio and television stations, therefore, tend to have much the same bias that owners of newspapers have. The newspaper industry of the country is overwhelmingly a one-party industry—at least in the Northern, Eastern, and Western States; and in the Southern States it is generally overwhelmingly in favor of candidates who have the same ideas as the candidates supported by the radio and television stations in the North, East, and West. Very commonly the same group will own both the local newspaper and a radio and television station. If we give this group complete freedom to emphasize one party or the other, or one set of candidates or the other, do we not give to them exceedingly great powers over public opinion, and in effect deny to others the opportunity of being fairly heard?

Mr. PASTORE. No. We are not repealing section 315. We are merely writing into section 315 an exemption which will take care of the very ridiculous situation which is presented because of the Lar Daly decision.

Furthermore, we have retained within the structure of the exemption the panel discussion. Under existing law, without respect to section 315, we must bear in mind that licensees must come before the Commission every 3 years to have their licenses renewed, for the very reasons given by the distinguished Senator from Illinois.

Under existing law and policy it is absolutely mandatory that they shall serve the public interest because these media are in the public domain, and therefore they should be fair in their treatment in all events.

Mr. DOUGLAS. My observation of the FCC has been that it has not been a very efficient regulator of radio and television. I think its power to terminate a license every 3 years as a weapon which it has almost never used. In other words, the radio and television industry has come to control the Commission rather than that the Commission has control over the radio and television industry, and I doubt very much whether any radio or television station would have its license revoked because it supported the candidates of one political parts or because it played favorites in a local race.

Mr. PASTORE. I understand that completely, but is the distinguished Senator from Illinois telling me that he would prefer to have the industry remain under the condition that exists because of the Lar Daly decision?

Mr. DOUGLAS. No.

Mr. PASTORE. What are we to do about it?

Mr. DOUGLAS. I think we should adopt amendments which would require the stations, in return for the privilege which is being given them, at least to accord some further public service features, and to guarantee that the candidates of the major parties shall receive equal treatment.

I am not saying that every independent candidate should receive equal treatment, but I suggest the 10 percent rule, under which parties that in the previous election received 10 percent of the vote would be given equal treatment. Perhaps the percentage should be even lower.

This does not meet the problem of the primary, I know, and I know also that in the South the primaries are extremely important, but I think it does meet the problem of general elections in the two-party States. This I believe to be exceedingly important, and we on our side of the aisle, at least, feel this issue very acutely. We Democrats of the North already suffer grievously.

Mr. PASTORE. I realize that, and I am on the same side of the aisle. I wish to make it perfectly clear to the distinguished Senator from Illinois that we dealt with this matter a considerable number of days. We understand all the pitfalls involved. Our problem resolves itself basically into the framing of a law which will take into account the philosophy which all of us, I believe, have, namely, as to the objective to be accomplished, but when we came to frame the terminology and the phraseology to meet every instance, we ran into somewhat of a problem.

If the Members of the Senate, read the bill very carefully and take into account the existing law, and read the exceptions we are making, plus the fact that we are writing into the law a provision that a study is to be made of this matter for a period of 3 years in order to obviate and eliminate and obliterate the very situation the distinguished Senator from Illinois has pointed up so well, I believe they will agree with me that we have presented a measure which comes pretty close to being the best that can be submitted under the circumstances.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. PASTORE. I yield to the Senator from Florida.

Mr. HOLLAND. I wish to say, first, that I have never attended a hearing in which the attitude of the chairman and the other members of the subcom-

mittee was more objective, more impartial, or more thorough, than I observed in the subcommittee presided over by the distinguished Senator from Rhode Island, who conducted the long and sustained hearings on the measure before the Senate, and I wish to congratulate the Senator from Rhode Island.

Mr. PASTORE. I thank the Senator.

Mr. HOLLAND. I wish also to congratulate those who are on the subcommittee.

I desire to add that in the main I am completely for the bill. I think it is a fine bill. In my opinion it is a measure necessary to assure fair treatment of candidates and of parties as well in the presidential, the senatorial, the congressional, and the gubernatorial elections, and in all the statewide and county and district elections which will take place next year. That is our first interest.

There are two elements in the bill which cause me a little concern, and it is as to them that I should like to address some questions to my distinguished friend, if I may.

Mr. PASTORE. I yield to the Senator.

Mr. HOLLAND. The first query is with reference to the words "news documentary." I have discussed this matter with the Senator from Rhode Island, and I think I now understand just what is meant by those two words, but I ask him to state for the record what he and his committee have in mind by the use of those two words, in exempting what is referred to as a news documentary from the coverage of section 315 in its requirement of equal time.

Mr. PASTORE. The best way I can describe and define "news documentary," is by taking a case where a news event of contemporary value occurs. In order to give it the graphic and dramatic appeal it deserves, the program will go into the background, giving the genesis which led to the event of the moment, and develop it from that point on.

For instance, when the St. Lawrence Seaway was opened, the chances are that in describing the cutting of the ribbon, which might be the event of the moment having news value, it might be well to show where the campaign for the Seaway started, the man who introduced the legislation, and it might show the Senator from Florida as the one who introduced the original proposal. In the event the Senator from Florida were a candidate for public office, immediately anyone who was running against him in Florida would say that he had the right to equal time.

The point is that the news documentary is merely a flashback or a development of background to make the news value of the moment clearer in the viewer's mind, or to one who is listening over the radio. It is a development of the background, the historical or chronological sequence that leads to the moment or the event of the moment, in order to describe it, and define it a little better in the eyes of the public who are watching it on television, or the hearing of those who are listening on the radio.

Mr. HOLLAND. I thank my distinguished friend. I may say that it seems to me the phrase as used here, "news documentary," does not mean a document, but, if I understand it correctly now, it does mean a documentation of the point at issue in a present news item by showing the history and the logical development that preceded the particular event or instance. Is that correct?

Mr. PASTORE. Yes. As a matter of fact, Sunday afternoon there was a television show which depicted the development of section 315, and it showed a clip of our committee proceedings. I do not know whether the Senator from Florida was caught in one of those flashes, but the fact of the matter is that it showed how this whole thing developed. That is a news documentary. The broadcasters document their story in such a way that it gives the chronological sequence which is necessary for a better and more definitive understanding.

Mr. HOLLAND. Mr. President, that description of what is meant is thoroughly satisfactory to the Senator from Florida. What I apprehended was that it might open the door rather widely to things which might deal with an individual or with a series of events that might make for trouble, but I believe that with this rather definitive illustration of what is meant we need have no further concern about the term.

Mr. ENGLE. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I yield to the Senator from California.

Mr. ENGLE. I very carefully read section 315(a), and it appears to me that the exemption provided is broad enough so that it would permit a television station to put Senator PASTORE or Senator MORTON on a newscast with relationship to his election and not be required to give equal time.

I can see nothing in the proposed statute which would prevent a documentary on the Senator from Kentucky or the Senator from Rhode Island as a news documentary in connection with the announcement of his candidacy, which would be an item of news. In other words, if we take a good hard look at the situation, we find that the TV stations could take the announcement of a candidacy, put it into a news documentary, and go into the background.

Let us take the time, for instance, when a very famous Republican Governor of California switched from the race for Governor to the race for the Senate. When he made his announcement it was a newsworthy statement. The TV was turned on him. Now they give him a little more latitude. They go back and produce a documentary about him, and they are exempt; they will not be required to give equal time. That is the point I desire to make.

I think we should not let the RECORD appear to show that political announcements are not included within the news. They are, and they do not require the assignment of equal time. If I am mistaken about that, I hope the Senator from Rhode Island will correct the RECORD, because as I read section 315(a), the broadcasters can put candidates on the air when the candidacies are announced, and they are not even required to give equal time to the opposition.

Mr. PASTORE. As a matter of fact, if the broadcasters were of the mind to do so, they could subvert the law. But the point is that the whole law must be read in its entirety. Being very conscious of the situation presented by the Senator from California, I call his attention to section 2 of the bill, which provides that when Congress declares its intention to amend section 315 of the Communications Act of 1934, if deliberately a station or a broadcaster uses its license as a subterfuge to subvert and to violate the clear intention of Congress and to do something which was not a fair treatment of a public issue, such a station or broadcaster could be dealt with under the renewal-of-license procedure.

I realize that a situation of abuse can be pointed out here or there. But I say to Senators that we must either do something to remedy the situation, or else remain with the very ridiculous decision in the Lar Daly case.

Mr. ENGLE. I am not implying that I am against the bill. I think we have to take action. I think the Lar Daly case presented a ridiculous situation, and in my opinion the Federal Communications Commission misconstrued and misinterpreted the law. There was no basis in law for the decision which the Commission made.

What I am trying to point out is that the matter of news documentaries does not boil down to such an innocuous matter.

Mr. PASTORE. I never said it was innocuous. I always felt that any exposure of my opponent had a fatal end, until I read the returns of the election. Then I realized how uselessly I had worried about many things which were not of such cataclysmic importance. For it sometimes happens that the exposure is not very good. Every time the viewers see the Senator from California on television, it is quite a treat.

Mr. ENGLE. I thank the Senator from Rhode Island.

Mr. PASTORE. There are other persons who are not quite so photogenic. But we cannot take care of every situation. It is necessary to do something about the Lar Daly decision. I say the measure presented represents the best decision the committee could make. If any Senator can better the bill, I am perfectly willing to accept amendments on the floor. But there are risks involved.

Mr. HOLLAND. The distinguished Senator from Minnesota [Mr. MCCARTHY] tells me he has some questions on the news documentary matter. Since we are making a legislative history on that subject at this time I will gladly yield to him.

Mr. PASTORE. I will come back to that point. The two points of contention in this matter are news documentaries and panel discussions.

Mr. HOLLAND. The latter is also something I desire to discuss a little later.

Mr. PASTORE. We will have discussions pro and con. We cannot present a perfect measure. I know all the arguments both for and against. I have heard them all. I have made them myself. But this is the best we could do. It is about as near to perfection as we can come. If any Senator can improve on the language, I shall be the first one to accept his amendment.

I yield to the Senator from Kentucky.

Mr. MORTON. Mr. President, first I commend the Senator from Rhode Island for the excellent work he did in connection with this much-needed proposal. We have the choice of having a news blackout or of doing something about the situation, as the Senator from Rhode Island has well pointed out.

Are we not in the bill really relying on the responsibility, fair-mindedness, and integrity of the broadcasting industry? If they do not meet the challenge, we will have to face up to it.

Mr. PASTORE. We do not meet them in that fashion. We subject ourselves to their judgment, insofar as procedures are concerned. But basically we have left in the law the philosophy of Congress that equal time shall be given to opposing candidates.

We have found it necessary to take this action because of the decision by the Commission in the Lar Daly case. I do not agree with the Commission's interpretation of the law. For almost 32 years we lived in a situation in which the decision in the Daly case was not operative. But last February the Commission rendered a very ridiculous decision which requires that an amendment be made to the law; otherwise there could be a complete blackout in political campaigns.

Yesterday on television we saw the pictures of Mr. NIXON in Russia. If Mr. NIXON had qualified as a candidate for the Presidency in any State of the Union, or had announced himself as a candidate, those films could not have been shown in the United States of America without equal time having been afforded to all other candidates for President of the United States.

Mr. ENGLE. Why should not all candidates be given equal time? Is there anything wrong about that? How many candidates will there be?

Mr. MORTON. I think, first, that section 315 has not been repealed; it has been expanded. If the broadcasting industry is not sufficiently responsible to give a fair measure of time or to give judicious treatment and fair treatment in this area, then I think the Senator from Rhode Island will be one of the first Members of the Senate to do something about it.

Mr. PASTORE. I certainly will. I thank the Senator from Kentucky for his complimentary remarks.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. ALLOTT. I also wish to compliment the Senator from Rhode Island for the excellent work he has done on the bill. I believe he recalls that I introduced the first bill on this subject. It was based primarily on the fact that section 315(a)—and I believe the Senator from Rhode Island concurs in this statement—has been misinterpreted in a recent decision of the FCC.

Mr. PASTORE. I certainly concur in that statement, although I do not question the good conscience of the Commission in the decision which it reached.

Mr. ALLOTT. Oh, no.

Mr. PASTORE. But I differ with the Commission, and so does the Attorney General of the United States. It was never considered that when a candidate does not initiate a program himself, he is making use of the facility, especially in a routine news case. But that was how the Commission ruled, and it is the existing rule unless Congress does something to change it.

Mr. ALLOTT. I understand the remarks of Senators who are concerned about the abuse of news interviews, newscasts, and the like. I covered this ground rather thoroughly in my statement to the committee. I say again that I believe the committee did good work. I believe that not only the operators of radio stations, but also of TV facilities, have a conscience and a responsibility of their own. But I also have the feeling that when they come before the American public day after day with slanted comments or slanted interviews, which we know has happened, the public has its own way of taking care of such situations. Such statements sometimes do not have the weight which the people who make them think they have.

We know that abuses occur, but I feel that considering the reexamination of the matter and the report from the Federal Communications Commission, the committee has gone as far as it can go with a bill at this time. I hope the bill will prove to be an amendatory measure which will improve the situation.

Mr. PASTORE. I do not want to leave the impression with Senators that the teeth have been taken out of the equal time law. We certainly have not done that. Section 315 remains intact. We were confronted with the Lar Daly decision, which decision led to a very ridiculous situation. We have tried to do something about it. We also have written into the bill a provision about panel discussions.

I hope to hear from the distinguished Senator from Minnesota [Mr. MCCARTHY] on the question of panel discussions. In the committee it was argued that we should not deal with that subject, because if we did, we would be making a complete innovation, as compared with our attempts to deal with the matters involved in the Lar Daly decision. Certainly we must face the panel situation realistically, too.

In the commmittee I stated that if there was a chance that the House would be adamant and would not go along with the inclusion of panel discussions, then, rather than jeopardize the chances of the passage and enactment of the bill, I would recede on that point, after it was debated. But our best judgment, under the circumstances, was that panel discussions should be excepted; and I believe that was borne out by the recent experience of the senior Senator from Minnesota [Mr. HUMPHREY].

In other words, I believe that we would be ill-advised if we did not include such a provision. I state frankly that if the Senator from Minnesota were a candidate in a given election—and I shall not go into a discussion of the possibilities in that connection—under the law now proposed he could not be invited to participate in such a program.

I realize that some persons think he should not participate in such programs, and other people believe he should participate in them. I believe the issue should be debated fully and openly on the floor of the Senate. After that is done, of course, I shall yield to the best judgment of the Senate, because I say frankly that we are not wedded particularly to the inclusion of a provision of that type.

Mr. ENGLE. Mr. President, will the Senator from Rhode Island yield to me?

The PRESIDING OFFICER (Mr. DOUGLAS in the chair). Does the Senator from Rhode Island yield to the Senator from California?

Mr. PASTORE. I yield.

Mr. ENGLE. With reference to the Senator from Minnesota [Mr. HUMPHREY], let me state that he has been invited to participate in two panel discussions, and I frankly discussed the matter with him. I have at the desk an amendment on this point.

Now that we have opened up the matter as regards the Lar Daly broadcast, I do not believe the Senator from Minnesota would oppose striking out that provision.

But even if the allowance of equal time for all presidential candidates were insisted upon, is there anything wrong with doing so? How many candidates will there be, anyway? Today, if the Senator from Minnesota were the only announced candidate, how many other candidates would the television companies have to schedule? No one else so far as I know.

Mr. PASTORE. That would depend on what was meant by the term "legally qualified candidate." Certainly there might be 25 or 30 of them; that would not be impossible. At one time there were 18.

Mr. ALLOTT. Mr. President, at this point will the Senator from Rhode Island yield further to me?

Mr. PASTORE. I yield.

Mr. ALLOTT. I should like to refer to the further fact that the equal-time provision is not affected in this case. This provision would simply be added to section 315(a); and the equal time situation would not be affected by this measure.

Mr. HOLLAND. Mr. President, will the Senator from Rhode Island yield to me?

Mr. PASTORE. Mr. President, at this time I shall yield to the Senator from Florida. I understand that the Senator from Minnesota has a question to ask in connection with this point. So when the Senator from Florida has concluded, I shall yield next to the Senator from Minnesota [Mr. MCCARTHY].

At this time I yield to the Senator from Florida [Mr. HOLLAND].

Mr. HOLLAND. I thank my distinguished friend for yielding to me.

Mr. President, I repeat that I think news documentation, as defined by the Senator from Rhode Island, comes well within the group of newsworthy items which are proposed to be exempted from the application of this subsection of the Act; and I also call attention to the fact that every one of the items so exempted, except the panel discussions, has to do with news. For instance, in that connection I refer to a newscast, a news interview, a news documentary, and an on-the-spot coverage of news events.

This brings me to the only matter with which I have any serious concern—namely, the inclusion of panel discussions. It has been my observation, with reference to statewide political races—for instance, in my State, and particularly when two candidates or several candidates who have had considerable political experience are running for election to the same office—that panel discussions more frequently than not have to do with what the candidates did or did not do some years before, rather than with any newsworthy item as of the present.

In a race which comes very clearly to my mind, because it involved me, just last year, I had a very distinguished opponent. I think I can truthfully say that in the many panel discussions on which he appeared and I appeared, the discussion most frequently had to do with what one or the other of the two candidates who were appearing on the panel said or did or how he voted in connection with some issue of the past—some of them going back 12 or 15 years.

I do not believe that from the standpoint of the wider political races it would be safe to include panel discussions, but I am particularly concerned about the local races, because in our State, at least, where generally there is one-party government, the real race is conducted in the primary, and it is a wide-open race—for instance, with 10 or more men running for election to the office of sheriff, in a large county, where the responsibility of the sheriff is very great, and where the interests of various groups which do not want strict law enforcement are large and are well known.

It seems to me that such an arrangement would result in giving the television companies the power pretty well to pick out who would be the sheriff of the county or who would be the nominee in a race of that kind; and the same might be said in regard to election to the office of tax assessor or election to the office of tax collector or election to the office of judge. In our State, county judges, circuit judges, and even the supreme court judges are elected; all of them have to run for office.

So it seems to me that such an arrangement would place in the hands of the television companies a weapon so powerful that we would not be wise to include in the bill a provision that panel discussions should be regarded as being in the same classification as these news items, which I think are all in the same general class which should be exempted from the application of the act.

Mr. PASTORE. Mr. President, the Senator from Florida makes a very valid point. I have already stated, several times, that we discussed this matter, both pro and con, in the committee; and it was the best judgment of the committee to include panel discussions as an exemption, on the basis of the committee action, and then to have the matter discussed here on the floor.

I state frankly that I shall not raise any clamor if such a provision is deleted. I do not think it is really the essence of the exemptions, at all. In executive session of the committee, I said that if in any way the retention of this provision would jeopardize the eventual enactment of the remainder of the exemptions, I would be willing to recede on this one. I have already assured the chairman of the committee, the Senator from Washington [Mr. MAGNUSON] of my position on that point.

I repeat that this issue is one which can fairly be argued either way. I realize that the problem is much more acute in the case of local elections and in the case of primary elections in one-party States. Here again, I am waiting to hear the Senator from Minnesota state what experience in his State has been.

In the meantime, the Senator from Florida [Mr. HOLLAND] has made a very fine argument.

Certainly I want to have this issue debated thoroughly. After it is debated thoroughly, it will be for the Senate to decide whether to accept or to reject this provision, either by means of a voice vote or by means of a yea-and-nay vote; I do not care which type of vote is used.

We have tried to report a bill to correct a very unfortunate and undesirable situation. I repeat that the crux of the bill does not lie in the retention of this particular provision. If this provision is deleted, certainly I shall not be unhappy in any way. But I believe the issue should be thoroughly debated, just as is now being done.

Mr. HOLLAND. Mr. President, if the Senator from Rhode Island will yield further to me, let me say that he is displaying here on the floor the good humor, the patience, and the breadth of view which I have already stated he displayed so fully in the committee hearings.

Last of all, I desire to refer especially again to the one-party State situation. In the many States of the Union which are one-party States—most of them are Democratic States, but some of them are Republican States—the real battle occurs, not in the general election, but in the primary election. In such elections, no one group has the right to say to a candidate, "You run for us"; neither does another group have the right to say to another candidate, "You run for us." In other words, it is not possible thus to narrow the issue, so that the race will be between only two candidates. On the contrary, in most one-party States, there are many candidates in the statewide elections, and particularly in the county elections. In our State it is customary to have anywhere from 5 to 15 candidates in the gubernatorial race. There were 11 in the gubernatorial race which I survived a fairly long time ago. At that time, television was not in use. But in that contest, 5 or 6 of the 11 candidates were regarded as possible winners.

It seems perfectly clear to me that the leading television stations of the State, under present conditions, in a similar race, could very easily pick out one candidate and could center their panel presentations upon him, so that he would be regarded with particular favor by the people of the State, and so that his selection in the primary and his election in the general election would be almost assured.

So I feel very strongly that to put panel discussions on the same basis as newsworthy items would be a very great mistake.

I realize that the distinguished Senator from Rhode Island and his subcommittee proceeded cautiously in a new field, in trying to correct a known abuse; and I believe they are trying to confine the bill to the field of items which are either newsworthy or are so close to news as to be properly excepted.

Certainly I hope this issue will be fully debated in all good humor by all of us.

Let me point out that I believe all of us realize that, so far as we are concerned, we would be in the preferred class, because officeholders would almost inevitably have the best "break"; they would be more newsworthy and would be more in the public eye than would newcomers in such races. But looking at it objectively, I hope we shall confine this to newscasts and those matters so closely related as to be a part of that general category.

Mr. PASTORE. Let me merely say to the distinguished Senator from Florida that I felt if there was a substantial number of Senators who, in good conscience, would resist the bill only because of the inclusion of panel discussions, the Senator from Rhode Island would accept an amendment eliminating that phrase. I would not want a controversy over that particular category, because it is a little broader than the news category or on-the-spot news coverage. We merely proposed that provision so that a fair discussion could be had. I felt that if there were enough Senators who would resist the bill because of the inclusion of that category, I would accept an amendment to eliminate it.

Mr. HOLLAND. I warmly thank the distinguished Senator.

Mr. McCARTHY. Mr. President, I should like to comment on the CBS ruling in the "Face the Nation" program, since, in my opinion, it was a ruling which was uncalled for. I do not know whether the decision by the CBS lawyers can properly be called a ruling, although it has been referred to as a ruling in the press. I hope it was not an attempt to panic the Senate into acting on this particular measure. I am sure it did not move the members of the Committee on Interstate and Foreign Commerce to take the action they have taken.

The CBS lawyers went back to section 315 as the justification for their action

in determining who is a legally qualified candidate, and for stating that the senior Senator from Minnesota had become a legally qualified candidate. Did the committee give special thought to redefining what is a "legally qualified candidate," the words contained in section 315? As the CBS's decision stands, it seems the senior Senator from Minnesota is the only one who can be considered as a legally qualified candidate.

Mr. PASTORE. I think that CBS could be wrong in its interpretation. I do not question its sincerity or honesty. Even the Lar Daly case shocks my sensibilities as to the legal implications. A person was pictured in a newscast, announcing the opening of the campaign for the March of Dimes. It was not intended to be a use. As a matter of fact, the framer of the Communications Act, former Senator Dill, stated it was not intended that such coverage would be included in the terms of the act, because the person did not initiate anything. However, I do not want to go into that question now. As to who is a legally qualified candidate is a decision which often is made in the various States.

Mr. McCARTHY. Is there a legally qualified candidate for the Presidency of the United States anywhere in this country?

Mr. PASTORE. No, but I suppose if under the law of a State a person had become active to the point where he became a candidate on the ballot, whether it was in a primary for a convention, or what have you, it could be said he was a legally qualified candidate. It did not happen in the case of the senior Senator from Minnesota [Mr. HUMPHREY]. I do not think he was a legally qualified candidate; but, after all, the invitation was withdrawn by the same group that extended it in the first place.

I do not want to go into that question except merely to say that the decision that the senior Senator from Minnesota was a legally qualified candidate points up the ridiculous situation we have reached.

Mr. McCARTHY. The people do not elect the President of the United States; they elect the electors. It is only after the members of the electoral college meet that the President is elected. There are some problems with regard to congressional candidates.

Mr. MAGNUSON. Mr. President, I may say to the Senator from Minnesota that this is another difficult field. It is difficult to define what is meant by a "legally qualified candidate." In a senatorial or gubernatorial race, when a candidate files for office, he becomes a legally qualified candidate.

The interpretation of section 315 has drifted along for many years. Mainly, the interpretation has been determined by the individual stations themselves. For instance, in my State, the stations hold that one becomes a legally qualified candidate the day he announces he is going to run for the United States Senate, let us say. The net result is that those who wish to run for office become coy until an appropriate time, so they can get on the radio and television. That is particularly true of the incumbents.

The Senator from Rhode Island and I agree we must get at that matter, because, as the junior Senator from Minnesota has pointed out, one who seeks the Presidency actually is never legally qualified. He does not sign his name to anything. He does not say, "I want a blank form such as one fills out when he becomes a nominee for some office." This matter has caused concern. I must say the Federal Communications Commission has never met the question with a uniform ruling.

I know some of the personnel in CBS. They were a little "gun shy" on this question, because they were the ones involved in this case. They were taking the lead in having the question cleared up.

As the Senator has pointed out, the Senator from Indiana, who had an excellent proposal, gave ground because so many complications were involved. We have not attempted to repeal the philosophy of equal time. We are making exceptions. It is entirely up to a station to decide in the case of a newscast. If I were operating a station in Louisiana, and my good friend the Senator from Louisiana [Mr. LONG] were there, and was a candidate, I would want to have him appear every day, because I could make news with him every day. If there were no news, the station could create it. It would be called spot news.

There are only so many minutes that stations can devote to news. More news appears on the ticker than can be utilized. The one who decides what news coming in on the ticker is to be used is the one who is in a position to do favors. I do not say stations do that, but it is very much up to the stations to select the news to be broadcast.

The Senator from California and the Senator from Indiana agreed to section 2 of the bill. I suggested it because I thought at least we could take a look at the question. Of course, this is after the fact. Perhaps our committee ought to establish a permanent subcommittee to be a sort of watchdog in this matter, so a person could complain and get some action on his complaint.

Mr. PASTORE. If the Senator ever creates such a subcommittee, please, please do not put the junior Senator from Rhode Island on it. [Laughter.]

Mr. MAGNUSON. It is pretty much the stations that decide. They are valuable properties. They are not going to get themselves in a difficult position. As the Senator from Florida pointed out, the question of local stations and panel discussions enters into the problem. I do not know how we can find words to describe precisely what is meant.

Mr. PASTORE. It is a most difficult thing to do. We realize that. There is a much broader aspect that relates to panel discussions than to the other categories.

Mr. MAGNUSON. The committee did not attempt to destroy the philosophy of equal time; it merely made exceptions. As the Senator from Rhode Island has pointed out, it is a question of how far the Senate wants to go. Surely, it wants to permit on-the-spot news. The question of news documentaries poses another problem. I suppose all the networks will want to put together Mr. NIXON'S visit to Russia in a one-half hour documentary, as it is called. Would the senior Senator from Minnesota [Mr. HUMPHREY] be entitled to the same length documentary?

Mr. McCARTHY. Perhaps it would depend on whether or not I was supporting him for the Presidency of the United States and whether I had said that he is a candidate for the Presidency.

For the sake of CBS I now say that he is a candidate.

Mr. PASTORE. Mr. President, how much time do I have remaining?

Mr. McCARTHY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Rhode Island has 8 minutes remaining.

Mr. MAGNUSON. Mr. President, if the Senator will yield, I merely desire to point out the great difficulty of trying to find language to define these areas. I think the committee will have to do more, because for some reason the FCC has always backed away from making decisions of this kind.

Mr. PASTORE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. PASTORE. Mr. President, I do not know if all the Senators who are seeking recognition are speaking for the bill. There is some time in opposition. I do not think any Senator is really opposed to the bill.

May I have the indulgence of the Senator from Kansas [Mr. SCHOEPPEL]? May we borrow some time from the time in opposition?

Mr. SCHOEPPEL. Mr. President, I will say to the distinguished Senator from Rhode Island that certainly he may borrow some time. I know of no Senator on this side who is in opposition to the measure. An amendment may be offered. I have heard of the possibility of one, but that is not positive.

How much time does the distinguished Senator from Rhode Island desire?

Mr. PASTORE. I have only 8 minutes left, and in view of the way the debate has been proceeding, may I borrow a half hour from the other side?

Mr. SCHOEPPEL. The Senator may.

Mr. PASTORE. I will yield, then, to the Senator from Minnesota.

Mr. McCARTHY. I wish to raise a serious question with regard to the news documentaries. I believe that the possibilities of abuse in this area are certainly greater than the possibilities even in the case of the panel discussions or the interviews.

For example, I should like to relate the kind of experience I had in Minnesota, to give an example of what occurred in my State. This is a comparable situation with regard to newspapers. A newspaper may run three or four pages in the middle of the rotogravure section, in which they simply give the background of one candidate, pointing out that he had grandparents, where they came from, and what they did; that he

had parents, who they were, where they came from, and so on.

Mr. PASTORE. May we have order in the Chamber, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. McCARTHY. All of this material laid out in an expensive manner would cost $4,000 or $5,000 to duplicate.

This was done for a candidate running against me. I went to the press and said that I had grandparents, who were respectable, and rather interesting people. I said that I had parents, who were pioneers in Minnesota. I said that I had lived there all my life and had done a few things, and that my children looked good in pictures. I said, "In next week's issue, why not run the same sort of thing about me, to inform the electorate?" There were only two legally qualified candidates at that time. They said they were not interested in doing so.

The same thing can be done with the documentary newscasts. One candidate could be invited to make up a 30-minute documentary newscast, with pictures of grandparents, pictures of parents, and so on." And the people in charge could say, "We think that is newsworthy."

Under the language being proposed would there be any recourse for other candidates? Could they say, "No; this is not documentary news"?

Mr. PASTORE. It is the firm conviction of the Senator from Rhode Island that irrespective of section 315, if an act of that kind were deliberate in an effort to discriminate to the disadvantage of the cause of one candidate, in comparison to the cause of another candidate, those doing the broadcasting would be subject to a complaint and a protest being made at the time they went before the Commission for the renewal of their license, because under the law this medium is considered to be in the public domain. That is the other safeguard there would be.

Mr. McCARTHY. What would happen? That would take place 2 or 3 years afterwards.

Mr. PASTORE. That is correct. That is positively correct.

As against that situation, I suppose the Senator would recognize that there are many legitimate broadcasts in which the element of discrimination or disadvantage to an opposing candidate is not the feature.

The situation the Senator has presented today is with respect to a newspaper, as compared to television or radio. I am not saying that this abuse could not happen. I am not making that argument at all. The fact remains that there is a calculated risk involved, and we must weigh it.

Mr. McCARTHY. There is one other question I should like to raise.

Mr. PASTORE. I say that we have written into the bill section 2, which we hope will be a protective umbrella to make sure that the media is used in the public interest.

Mr. McCARTHY. The additional question which I should like to raise is with regard to the possibility of setting some limitation on particularly the documentary newscasts, so as to insist that they be within the time of the established or scheduled newscast. That would set a time limitation upon them. If the station wanted to take all the time in a news program for the broadcast, that would be all right, but it would not be possible to set up another half hour later in the evening for documentary news.

Mr. PASTORE. Would it be possible for the distinguished Senator to write out the language? I would be glad to consider it. If the language could be written out, I would be glad to take a look at it before the passage of the bill. If it meets with the satisfaction of the members of the committee, I do not see why we could not take it to conference, and perhaps discuss it there.

Mr. McCARTHY. I thank the Senator. I will attempt to draft some language.

Mr. CASE of South Dakota. Mr. President, will the Senator yield?

Mr. PASTORE. I yield to the Senator from South Dakota.

Mr. CASE of South Dakota. First, I wish to express my appreciation to the committee for having taken up this very thorny problem and having presented an opportunity to improve the situation, at least. I personally regard the Lar Daly decision as not only ridiculous, but as one which it is impossible to accept. We have to do something about it.

I shall certainly defer to the judgment of the committee members and of others who have worked on the details as to what should finally be done, but in my own thinking about the matter, I have considered that a part of the problem was created by the failure to have an accepted definition of who is a legally qualified candidate.

In regard to the reference which has been made to Vice President NIXON'S visit to Russia, I had supposed that the Vice President went to Russia as the Vice President and not as a candidate.

I had assumed that when the distinguished Senator from Minnesota [Mr. HUMPHREY] went to Russia earlier, he went there as a Senator, since Senators do go to other countries which are trouble spots, where questions arise. I had assumed the Senator from Minnesota went to Russia in that capacity, and ought not to be penalized for it.

A Member of Congress ought not to be penalized because he attempts to do his duty as an officeholder. It should not be interpreted necessarily as the action of a candidate for something else. We all have some responsibilities in the holding of public office, and we ought not to be deterred or penalized for carrying out what is our concept of our normal responsibility in that field.

I do not know that this is a final thought at all, but I have been wondering if a "legally qualified candidate" should not be defined as one who has met the requirements to be placed on an election ballot in the State of the licensee, or in his own State, obviously.

Mr. PASTORE. I would not want to agree to that hastily, for the simple reason that it might lead to many ramifications and complexities. It has already been pointed out that in some States merely by an announcement or by the filing of a paper one becomes a legally qualified candidate. The argument made further, in respect to the case of the President and the Vice President, is that we do not put their names on the ballot, but we simply put the names of the electors on the ballot.

Before I would venture to accept anything of that sort I would want to hold hearings on the matter. I will admit that is the crux of the problem. The "legally qualified candidate" is basically the language which always has existed in section 315, and we have left that untouched.

Mr. CASE of South Dakota. That is where the problem arises. A man will say, "I am a candidate for President." Is he a legally qualified candidate, or not?

Mr. PASTORE. The question is larger than that. That would settle the Humphrey situation, but many people feel that even after a man has been qualified legally as a candidate there ought not be the exemption of the panel discussion. There are some who still feel that way about it.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. PASTORE. I will say that the Senator from Indiana [Mr. HARTKE] has proposed that we write into the law a provision based on a percentage of votes cast during a national election, in order to straighten out the situation with reference to the President and Vice President.

Mr. HARTKE. Mr. President, will the Senator yield so that I may comment on the matter for a moment?

Mr. PASTORE. I yield.

Mr. HARTKE. I recede from the position the Senator has stated, because I do not think at this time it is possible to pass such a law. I do not think it is impossible to define the term, but I think it is impossible to pass such a law at this time.

Mr. CASE of South Dakota. I do not think that, federally, we could do so. I do not believe the Federal Government can set up the qualifications for candidates in the various States, or determine whether a name shall appear on the ballot in a State. That is why I made my suggestion.

Mr. PASTORE. We discussed that matter, I will say to the distinguished Senator from South Dakota, and we reached the conclusion that if we ever got into it we would never rectify this ridiculous situation, as the Senator has termed it, by the end of this session of Congress.

Mr. CASE of South Dakota. I am not suggesting we can clear up the matter in this immediate situation, but I think that sooner or later the language in the original section 315, "Any person who is a legally qualified candidate for any public office," will have to be defined.

Mr. PASTORE. I quite agree.

Mr. CASE of South Dakota. I suggest that it be defined in the terms of the State of the residence of the individual, and of the licensee. I think we must reserve that definition to the States.

Mr. PASTORE. That is what they are supposed to do; but they have gone

out to the end of the limb. I do not question their sincerity, but it is pretty farfetched to say that merely because the friends of Mr. HUMPHREY thought he was a candidate for President of the United States, and Mr. HUMPHREY did not deny it, that automatically made him a legally qualified candidate for the Presidency. But what can I do about it? The decision was made by the people who extended the invitation.

Mr. CASE of South Dakota. But, until he has taken steps to qualify in some State by placing his name on a primary or some other official ballot, I doubt whether he is a legally qualified candidate.

Mr. PASTORE. I quite agree with the Senator.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. HARTKE. I was about to comment on the same point. We discussed in committee the question of definition. Frankly, we have enough trouble with newscasts and documentaries, without getting into this complicated field. We had better leave that until another day, if we are to have a law which will get us away from the tragedy of the Lar Daly decision.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. PROXMIRE. I should like to ask the Senator, in connection with the bill, if it is not true that what the bill does is to make an exception to section 315(a) in the case of an appearance by a candidate on a newscast.

Mr. PASTORE. That is correct, provided he did not initiate the newscast, provided he did nothing affirmatively to advance his own candidacy—in other words, if his appearance was a part of the information being given to the public as a newscast.

Mr. PROXMIRE. Is that language in the bill, or is that the interpretation of the Senator from Rhode Island?

Mr. PASTORE. That is the interpretation of the junior Senator from Rhode Island in making the legislative history on this amendment.

Mr. PROXMIRE. Is it not true that the committee, in its report, has said that in establishing this category of exemptions the committee was aware of the opportunity it affords a broadcaster to feature a favored candidate?

Mr. PASTORE. That is correct. I have admitted that.

Mr. PROXMIRE. The Senator has said that what the committee has done to try to protect the public interest in this case is to add section 2.

Mr. PASTORE. That is correct.

Mr. PROXMIRE. The tests here are described by the two words "effective" and "practical." There is no question about justice, equality, or fairness. The tests are effectiveness and practicality.

Mr. PASTORE. Does not the Senator from Wisconsin realize that if there were a prevalance of abuses, within moments after the Senate reconvenes in January the Senator from Rhode Island would be the first to undertake to remove the exemption from the statute?

Mr. PROXMIRE. I have the greatest faith in the judgment and integrity of the Senator from Rhode Island.

Mr. PASTORE. I certainly would not take it lying down.

Mr. PROXMIRE. I am sure of that. All I am saying is that in some instances, in some States, under some circumstances, where a particular candidate and the owner of a particular television station may be either good friends or fervent enemies, there are possibilities for abuse as the bill is drafted. The bill is very well drafted, and I know that the difficulties are tremendous.

Mr. PASTORE. We have done all we thought we could do.

I invite the attention of the distinguished Senator from Wisconsin to section 2 of the bill, beginning in line 16, dealing with recommendations by the Commission. The committee realized that we need to have some experience in this field. That will be the test as to whether we are doing the right thing or the wrong thing in asking the Commission to make recommendations:

> Such recommendations as it deems necessary to protect the public interest and to assure equal treatment of all legally qualified candidates for public office under section 315 of the Communications Act of 1934.

What more could we do?

Mr. PROXMIRE. There is something more that could be done. I should like to suggest it later, in connection with an amendment which I shall offer.

At this time I point out that reference has been made to section 2 which will only cover what happens in the coming 3 years. Suppose the television industry behaves itself for 3 years, and this bill becomes permanent legislation, except as abuses may become so great——

Mr. PASTORE. That is when the distinguished chairman will appoint a watchdog subcommittee. I make only one request: please do not place me on that subcommittee.

We are not met with a situation in which Congress is impotent. We are still the instrumentality to correct abuses if abuses occur. We propose to watch the situation very closely. We ran into one blind alley with the Lar Daly case. We feel that the situation has gone too far. The debate has indicated that there may be some question with respect to panel discussions or news documentaries. Let us add this new provision. Let it go to conference. Let us give it a trial. Let us remove this particular situation for the moment, and if there is anything wrong with that decision, it will be subject to correction. I cannot look at a crystal ball and say that everything we hope to avoid will be avoided.

There may be some who do not have the same confidence in the Commission that I have. I cannot help that. But let us give the new provision a trial. We have done all we can. We are practically in the twilight of this session of Congress. If we do not do something this session about the situation, we shall have a very chaotic situation come next election.

Mr. PROXMIRE. If I may make one further observation, my experience has been—as the Senator from Illinois has said so well earlier—that television stations and radio stations are owned, by and large, by people with money, and they have a particular economic interest which often represents a political interest. It is an interest which may or may not agree with my own. Sometimes I agree enthusiastically. Sometimes I disagree.

At any rate, my experience in my own State is that the preponderance of television and radio station owners in my judgment disagree with me rather often. The only protection I have had is the protection written into the law. I recognize the difficulty, and I recognize that the law should be changed. But I think we should do everything we can, not only to protect individual persons, but, far more important, to protect ideas which contradict the preponderant opinion of television and radio station owners throughout the country. That is why I say to the Senator from Rhode Island that later I shall offer an amendment, which I have previously shown him.

Mr. PASTORE. I shall be glad to consider it and discuss it with the Senator.

Mr. President, I yield 2 minutes to the Senator from Michigan [Mr. MCNAMARA].

Mr. MCNAMARA. Mr. President, I rise to support the recommendations of the Interstate and Foreign Commerce Committee on S. 2424, the so-called equal time amendment.

The ruling of the Federal Communications Commission in the Lar Daly case seemed harsh and restrictive. Were it to stand as is, I am convinced that effective radio and television news coverage of elections would be seriously jeopardized.

The committee recommendations, if enacted, will exempt news and related coverage from the equal time provisions of section 315 of the Communications Act of 1934.

This is a wise step. However, the companion recommendation that the FCC conduct a 3-year study of the effects of this amendment is also wise.

I want to make it clear that I do not consider this 3-year study to be an idle gesture.

We are, in effect, leaving the control of news coverage of politics in the hands of the broadcasters. But we intend to supervise their future actions by this 3-year study.

I suppose the vast majority of broadcasters will employ their usual fine sense of fair play in the future. But it should be clear that Congress has not given them unlimited freedom.

Political coverage in the news programs of radio and television is essential to a well-informed electorate. But propaganda, in the form of news coverage, is not.

Favoring of one candidate over another in news treatment by a broadcaster will defeat the goals of this amendment. I trust this will not occur.

I am sure that with the explanation which has been given, and the legislative history which is now being made, this will not occur.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. MAGNUSON. I point out to Senators another facet of the problem which bears out what the Senator from Rhode Island has said, namely, that many decisions in this field must be left to the people themselves. Few persons realize that any television station can use a reasonable part of its time to editorialize. It can use any hour it wishes, or any number of minutes. It can actually put on a program about a candidate whom it favors, and discuss an issue. The stations have not done much of that.

I see that one of the local stations in Washington, WTOP, is experimenting with an editorial page on their own time, but they are limiting it to what they call community interest, which means, I suppose, District of Columbia affairs. They will not abuse this, in my opinion. They could run an editorial page an hour a day on television. On television, when they write an editorial, they have to talk about the man who is the object of the editorial. They have not used that method too much. That is probably another matter the committee will sooner or later have to take a look at, but the privilege has not been abused. It is again merely a difficult situation.

As to newscasts; in my section of the county last fall there was a very close race for district attorney. A week before the election there were two murders in the city of Seattle, and the two guilty persons were captured. The incumbent district attorney used every television station every night after the two criminals confessed the murders. The citizens forgot about the other man who was running. We encounter difficult situations like that, but that was news. That was really news, timely news.

I hope we will get on with this bill. I assure my colleagues that all of us on the committee feel that we have a host of problems left in this entire field which we will have to consider.

Mr. PROXMIRE. I think the point the Senator raised about editorials is well taken. It is too bad, in my judgment, that more radio stations do not take advantage of that.

What I am pleading for and arguing for is more controversy, not less. I think the issues should be debated on both sides far more than they are. My only contention is that there is a tendency on some issues, if it is left within the discretion of the broadcasters, to present one viewpoint and one viewpoint only.

Mr. MAGNUSON. The Senator from Florida raised the point in the committee and on the floor that most of the stations do not have enough public-service time, and that we should bring them to task for that, because the FCC, as I recall, unless fraud has been proven, will never revoke a license or refuse the renewal of a license. I think we have to jack them up on that. Consider time spent on religious broadcasts. The stations do not afford public service of that kind to a sufficient extent, and I think there ought to be more of that. I have said publicly that I think they ought to editorialize more, because if they broadcast an editorial the people who are listening or viewing will be impressed by it. They should use this great medium of expression for that purpose.

There are many different cases that could be cited. No one is more thoroughly convinced than are the Senator from Rhode Island and myself of the fact that there are many problems to face in the vast new complex field of communications.

Mr. PASTORE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 14 minutes.

Mr. PASTORE. May I ask my colleagues how much time they desire? If they have amendments to propose, I wish they would offer them.

Mr. HARTKE. I would like to have the Senator yield me about 3 minutes.

Mr. PASTORE. I yield 3 minutes to the Senator from Indiana.

Mr. HARTKE. Mr. President, it has been 25 years since the enactment of the Communications Act of 1934, and during that time it has not been amended.

At the time the act, including section 315, was adopted, few radio stations existed and the medium was more of a novelty than an effective means of communication. Television was hardly a dream. Today there are literally hundreds of licensees—millions of listeners and viewers. Campaigns today depend heavily upon coverage by radio and television to take issues and candidates into the homes of these millions of Americans. The industry has grown up. It is responsible, responsible enough to get away from hand holding and spoon feeding.

Recent events, Mr. President, indicate the necessity for an immediate change to exempt legitimate news broadcasts and similar programs from the usage category of section 315, the equal times provisions of the Communications Act. This became an absolute necessity after the Federal Communications Commission's ruling in the so-called Lar Daly case. Today Daly says he is a candidate for President of the United States and is demanding equal time at the same time against Senator HUMPHREY, our distinguished colleague, because Senator HUMPHREY was displayed upon a different program.

In the case decided by the Commission, Mr. Lar Daly, a perennial fringe candidate for many offices, was running for mayor of Chicago. He demanded time equal to that afforded Mayor Richard Daley when the mayor was shown greeting dignitaries. Under a former interpretation, Lar Daly would not have been entitled to equal time. At this time the FCC ruled that he was entitled to the equal time.

So the necessity for a ruling is now upon us. The ramifications, as the distinguished Senator from Rhode Island and the chairman of the subcommittee, has stated, are widespread. We have had testimony before the Communications Subcommittee from operators of stations and from the major networks, from the television industry, from professors, and from people who have been active in political life, to the effect that if every person who declares himself a candidate for office is to be given equal time under the present interpretation of the Federal Communications Commission, it will result in an impossible situation. The result will be that people will not learn what is going on, and that will result, in effect, in a blackout. The ruling severely restricts the opportunity of the people to know what is going on.

Frankly, I saw a retrenchment in the television industry in my home State even before this situation arose when stations were fearful they were going to be called upon to meet the requirement of equal time. Rather than comply, they were blacking out. They said, "We will forgo the whole thing. We will play some music, give the viewers some dancing, and let it go at that." The ruling is not in the interest of a candidate for public office.

We will have to impose some responsibility on the systems, and hope they will carry out their duties faithfully.

As the Senator from Washington [Mr. MAGNUSON] has said, the bill provides for a review. Under the bill the subject is to be studied and it will be kept under surveillance. If the stations misbehave themselves, then it will be necessary to take additional action.

I should like to insert in the RECORD at this time, and I ask unanimous consent that I may do so, a statement entitled "Behind the News With Howard K. Smith," produced by the public affairs department of CBS news, on July 26, 1959.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

BEHIND THE NEWS WITH HOWARD K. SMITH: SECTION 315

ANNOUNCER. The CBS Television Network presents, "Behind the News With Howard K. Smith." Today's subject is "section 315."

SMITH. Good evening. Section 315 is not the name of a ward in a mental hospital. It's a section in a Federal law, a section that is giving the broadcasting industry a headache these days.

The law is the Communications Act of 1934. It sets down the general rules under which radio and television stations operate. Section 315 is the part of the act that deals with political candidates. It is known sometimes as the equal time section.

For the past few months, section 315 has been very much in the news. Congressional investigating committees have been holding hearings on it. These hearings grew out of a ruling made on section 315 by the Federal Communications Commission, dealing with a Chicago candidate named Lar Daly.

The FCC is the Government agency set up by the act to regulate the broadcasting industry. It does not make the law, it administers and interprets the law. So naturally, it has a powerful say in broadcasting.

The FCC's ruling in the Lar Daly case has the effect of making it virtually impossible for television to do a thorough job of covering political campaigns.

In the next half-hour, we're going to discuss section 315.

First, we will examine the law itself, and its application. Second, we will take a close look at that Lar Daly case in Chicago * * * the case that sparked the hearings in Washington. And third, we will discuss some of the proposals being made for changing the law. And at the end of the program, Dr. Frank Stanton, president of the Columbia Broadcasting System, will present the CBS position on section 315.

Now, the law and its application. Section 315 consists of only three brief paragraphs in the Communications Act. But it covers a lot of ground. Basically, it provides that if a station permits one candidate to use its facilities, it must give all other candidates for the same office an equal chance to use those facilities.

Last year, for example, the CBS station in New York City, WCBS–TV, arranged for a television debate on the issues in the New York governorship campaign:

"SPEAKER. We're here tonight to meet the candidates and get a factual picture of their positions on the leading issues the next Governor of New York State will face, in his 4-year term."

SMITH. The great majority of people were interested only in the two major candidates, Nelson Rockefeller and Averell Harriman. But there were two other candidates: Eric Hass of the Socialist Labor Party, and John T. McManus of the Independent Socialist Party. Under section 315 these candidates were entitled to equal time. They also participated in the debate.

The purpose of section 315 is to safeguard the democratic process by insuring that no candidate will be able to monopolize the important channels of information provided by radio and television. But section 315 has also had an unanticipated result. It has had the result of limiting coverage of political candidates during campaigns.

The basic problem is time. Time is a broadcaster's chief resource. He can sell time or he can give it away. But if he decides to sell time to one candidate, under section 315, he must allow all other candidates to purchase the same amount of time. Thus, in 1956, whenever CBS sold time to President Eisenhower:

"President EISENHOWER. You decide the future of America for 4 years this coming Election Day. We of the Republican Party pledge ourselves to continue our program of peace, security, and prosperity, that has made our party the"—

SMITH. CBS was then obligated to sell the same amount of time, at a comparable hour of the day, to Adlai Stevenson.

"STEVENSON. And may I mean that by a new America, an America which everlastingly attacks the ancient idea that men can solve their differences by killing one another."

SMITH. The network was also obligated to sell equal time to all other presidential candidates.

But a broadcaster, if he is to fulfill his role of service to the public, cannot only sell time. He must provide thorough coverage of political campaigns. He must air their opinions, encourage debate, provoke discussion among the major candidates. And here's the rub. For in providing time to cover campaigns the network must consider not only the two major political parties, but every fringe candidate who throws his hat into the ring.

For purposes of section 315, any person is a legally qualified candidate if he announces his candidacy, if he meets legal requirements for the office, and if he demonstrates that he is serious about running for office. The individual need not have the remotest chance of winning. If he meets these requirements, he qualifies under section 315 and is entitled to equal time. The trouble is, it is relatively easy to meet these requirements. Almost anyone, no matter how obscure, can qualify.

Take William R. Schneider. Do you remember him? Chances are you don't. For he is probably one of the most obscure presidential candidates in history. Yet in 1952, the FCC ruled that CBS owed Mr. Schneider equal time. Just before the presidential nominations, Mr. Schneider wrote and requested TV and radio time to expound his views. For he believed that Taft and Eisenhower were too radical and that he alone represented true conservatism. His request was refused. But, Mr. Schneider got on the air just the same. He complained to the Federal Communications Commission. He pointed out that Taft and Eisenhower had been given time, and he demanded his due. The FCC ruled that he was a candidate under 315 and he got his time:

"SCHNEIDER. * * * One hundred and thirty years of our Republic. In the past 20 years, we have been going too much into materialism. The idea of 'what do I get out of it?' When we can change that condition of thinking among the American people, we will then be able to say, 'Repeal the New Deal.'"

Mr. SMITH. Schneider had entered the new Hampshire and the Oregon primaries. He received only 230 votes in the New Hampshire primary and 350 votes in Oregon and he was unable to get admitted to the Republican convention, but he got his time.

The case has its amusing aspects but the trouble is there are hundreds of potential Mr. Schneiders. And that is not amusing.

In 1956, for example, there were at least 18 political parties with Presidential candidates. In addition to the Democratic and Republican parties they include: The Mississippi Black and Tan GOP Party; the Conservative Party; the States Rights Party; the Better Government Under the Constitution Party; the For America Party; the South Carolinians for Independent Elections Party; the Socialist Party; the Socialist Labor Party; the Socialist Workers Party; the Industrial Government Party; the Prohibition Party; the Virginia Social Democratic Party; the American Third Party; the Greenback Party; the Vegetarian Party; and the Christian Nationalist Party.

The minority party candidates got less than 1 percent of all the votes cast; one of these parties, the For America Party, got 483 votes; and one, the Christian Nationalist, was reported to have received eight votes. But no matter how obscure the candidates of these parties are, section 315 allows the broadcaster to make no distinction whatever between them. If one is permitted time, all must be permitted time. The sheer arithmetic involved makes it virtually impossible. Under section 315, a half-hour to a Democratic or a Republican candidate can mean many more half-hours to obscure and unknown opponents. No broadcasting company has that kind of time.

The result is broadcasters must forego the time that would otherwise be devoted to major candidates. In this there is a genuine loss. For television's capacity to inform is enormous. That capacity to inform, already hedged in by section 315, was even more seriously blunted by a series of events which began in Chicago just 5 months ago. They involved Lar Daly, the Chicagoan we mentioned earlier.

Let's now examine the Lar Daly case:

"DALY. Point No. 1, abolish all public school education. Public school education creates nothing but a godless child, with no knowledge of life through the Christian purpose."

SMITH. Lar Daly is a perennial—and unsuccessful—candidate for office. He has been defeated in at least a dozen elections. He likes to campaign in a red, white, and blue Uncle Sam suit. And he puts the words "America first" between his own first and second names. Last January Lar Daly decided to try again for public office. This time for the job of mayor of Chicago. He entered his name in the primary. Because he cross-filed, his name appeared on both the Democratic and Republican tickets in Chicago. Lar Daly had two opponents in the race. The incumbent mayor, Richard Daley (that's D-a-l-e-y), a Democrat, and Timothy Sheehan, a Republican.

On January 11, Mayor Daley broadcast an annual report to the people. The greatest portion of it consisted of film showing the activities of city departments and Mayor Daley narrating:

"DALEY. * * * West of Clark would be replaced by a proposed governmental center and civic classes, including beautiful"—

SMITH. It was carried on WBBM–TV, the CBS station in Chicago, and on other Chicago stations. The speech set a chain reaction in motion. Lar Daly immediately asked for equal time to answer the mayor. He got it on February 18:

"DALY. * * * Honest day's work with their back and hands. Now point No. 2, abolish all of public housing. Eventually Chicago will be cursed with a lot of New York East Side tenement flophouses. With the average $17,000 of cost per unit of public housing we can"—

SMITH. Timothy Sheehan, then the Republican candidate, asked for equal time to answer Lar Daly and he got that on February 22, just 4 days later. But now Lar Daly came back and asked for time to answer Sheehan. He argued that he was listed in the primary in both the Republican and Democratic tickets. This, he said, entitled him to equal time to answer both his Democratic and his Republican opponents. CBS refused that request.

CBS argued that equal time requirements had been met, since all three candidates had been given a half an hour. CBS also pointed out that if additional free time were given to Lar Daly, it would set in motion an endless series of claims and counterclaims for equal time among all candidates who cross-file in an election.

Meanwhile, Lar Daly had been busy on another front. He had been keeping track of the regularly scheduled television newscasts in Chicago. And here are excerpts from what he saw: On December 26, 1958, a newsfilm showing the WBBM roving reporter interviewing Timothy Sheehan, the Republican candidate. On December 28, 1958, a news interview—this time with the roving reporter, with Timothy Sheehan, and the Chairman of the Cook County Central Republican Committee. On December 31, a 46-second film showing, first, the Republican candidate and, second, the incumbent mayor filing their nominating petitions at the Board of Election. On January 19, a newsfilm showing the commencement of the annual Mothers' March of Dimes Drive in the Chicago area. The film showed Mayor Daley signing a proclamation inaugurating the drive. On January 25, a newsfilm much like this showing Mayor Daley welcoming President Frondizi, of Argentina, to Chicago.

Now Lar Daly made another demand. He wanted equal time for each of the appearances of his opponents in these five newscasts. CBS refused the request. It gave these reasons for its stand: First, it was never the congressional intention to include the regular newscasts under section 315—and until the Lar Daly case the law had never been interpreted in this way. Second, if section 315 were interpreted to include regular newscasts this would constitute an abridgement of freedom of the speech and of the press. As a practical matter, it would mean that broadcasters would be unable to cover political news during campaigns.

The case was taken to the FCC. On February 19, the Commission ruled that regular newscasts did fall under section 315, and it ordered the Chicago stations to give Lar Daly equal time. The decision was met with heavy criticism. Editorials attacking it appeared in most of the Nation's press. Magazines voiced disapproval. And President Eisenhower himself, in a press conference on March 18, denounced the effect of the FCC

decision. Press Secretary James Hagerty reported the President's views:

"HAGERTY. Without in any way criticizing the decision of the Federal Communications Commission which has to administer a law on the books, the President thinks that the situation arising out of this case is ridiculous, and this morning he asked the Attorney General of the United States to consider whether any remedial legislation could be drafted in connection with this matter, or whether any other appropriate action could be taken by the Department of Justice and the Attorney General in this connection."

SMITH. The Attorney General's office requested the Commission to reverse itself but the FCC reaffirmed its decision. Among the points it cited in its interpretation of the law, were these:

"First, since in most cases an appearance of a candidate will benefit him, any appearance is a use falling under the equal time provision. Second, that the language of section 315 is unconditional. It leaves no room for the Commission to use discretion in any case brought before it. Instead, the Commission must interpret the 'letter of the law.' And third, the ruling serves the dominant purpose of section 315 which is to make it impossible for a station to determine which other candidates shall be heard once a single candidate has been heard."

CBS refused. It has taken the case to [illegible] and that is where the matter now st[illegible]. What is the impact of the ruling? The Lar Daly ruling leaves the broadcasting industry with two courses of action. Either the industry can decide not to show the candidates for office during regular newscasts, regardless of the importance of the news event. Or, it may do so—and thus be compelled to offer equal time on newscasts to all other candidates to use as they wish.

The first choice would mean a virtual blackout in TV and radio political coverage during campaigns. The second choice would mean that time ordinarily devoted to hard news—would be turned over to political candidates—no matter how obscure they may be. In both instances, the American public would be deprived of television's and radio's capacity to inform.

The fact that the FCC ruled the way it did in the Lar Laly case does not mean that it itself wholly approves of section 315. It has publicly recommended a change. The FCC made its recommendations for a change at congressional hearings brought about by the Lar Daly case. These hearings were conducted by Senator JOHN PASTORE for the Senate Interstate and Foreign Commerce Committee and by Representative OREN HARRIS for the House Interstate and Foreign Commerce Committee. Several bills providing for changes in section 315 were considered.

The FCC's testimony was given before the Pastore committee. Commissioner Frederick Ford, speaking for a majority of the Commission, agreed that the law should be changed to exempt newscasts and special political events from the equal time requirement.

John C. Doerfer, the chairman of the FCC, went much further. Speaking for himself, and not for the Commission, Mr. Doerfer said that in his opinion section 315 should be repealed:

"DOERFER. In my opinion section 315 should be repealed. Programing of political candidates should be left to the judgment of the broadcast licensee. Bias or prejudice should be subject to the same sanctions as the unfair treatment of controversial matters are handled today."

SMITH. Leaders of the broadcasting industry also strongly urged liberalization of section 315 but there was opposition to change. The strongest opposition came naturally from members of minority parties. Witnesses for these parties testified that the bills under consideration would give the two dominant parties a monopoly of air time and would eliminate dissent from political life in the United States. Joseph Schafer, opposing change, spoke from recent experience:

"SCHAFER. As a recent candidate for the Republican nomination for mayor of Philadelphia in the primary election on May 19, 1959, I can testify to the desirability of continuing the requirement that radio and television stations must accord equal time to all political candidates. There is no doubt in my mind that otherwise I would not have received as much time as I did on the air during the recent campaign. It is also very desirable that newspapers be included in the provisions by which equal space could be given to all candidates in that field of communication. Newspapers should not be permitted to decide for themselves what candidates they favor and thus influence the public."

SMITH. Senator KENNETH KEATING, of New York, expressed the sentiment of those who urged caution. He urged reversal of the Lar Daly decision, but expressed hope the Commission would not lose sight of the legitimate rights of third parties:

"KEATING. I do not know what the answer to the problem is so far as the exact language is concerned. But I hope the committee will go slow in reporting legislation which while beneficial in intent, may nonetheless work an unfair hardship on an articulate and substantial segment of the political life of the State of New York. This committee will give special heed to unique situations such as that involving the Liberal Party in New York, for in our haste to reverse a restriction on the public's right to be fully informed we should not close the door on substantial groups which deserve an opportunity to be seen and heard."

SMITH. As a result of the hearings, two bills have been favorably voted on by committees. The Senate bill stipulates that newscasts, news interviews, news documentaries, on-the-spot coverage of news events and panel discussions will be exempt from section 315. The House bill stipulates that newscasts, news interviews, or any on-the-spot coverage of news events in which the appearance of the candidates is incidental to the presentation of the news, will be exempt from section 315.

The broadcasting industry has urged Congress to act quickly on these bills. For even now, the 1960 presidential campaigns are getting into gear. And already, section 315 is hampering television coverage of political candidates.

Less than 2 weeks ago, for example, CBS felt compelled to withdraw an invitation to Senator HUBERT HUMPHREY, of Minnesota, to appear on the program "Face the Nation," a weekly program from Washington, in which an important person is interviewed on an important issue of the day.

It was the opinion of CBS that there was a substantial risk. Senator HUMPHREY would be considered a legally qualified candidate under 315 and therefore if he appeared on "Face the Nation," any other candidate for the same nomination could have demanded free and equal time, and would have gotten it. With great reluctance, CBS, therefore, canceled his appearance.

Well, that is the story of section 315 up to now. I hope we have made clear to you what the controversy is about, and what the stakes are.

Liberalization of section 315 is an issue the broadcasting industry feels very strongly indeed about. Now here is Dr. Frank Stanton, the president of the Columbia Broadcasting System, who will present an editorial statement of the Columbia Broadcasting System's position on section 315:

STANTON. The most important national news story of 1960 will soon begin—the choice by the American people of a new President. No less important is the choice of Senators and Representatives. In every session, the Congress must make decisions that can condition our survival as a Nation and the survival of the whole world. Today the choice of a President and of our legislators is of critical importance. Obviously, we as citizens need the greatest help that we can get in carrying out this elective process. It cannot be made wisely unless the electorate can get to know everything about a major candidate, not just as reported by others but by seeing him, by hearing him, and by judging him for themselves. We do not want to depend on secondhand reports, on slogans, on mythmakers. Elections have become far too serious a business for that. We not only want to see and fairly judge the candidates for ourselves. But we need to and we are entitled to do so. And responsible candidates, in turn, want to be seen, to be heard, to be fairly judged.

You have seen today how a provision of law, section 315 of the Communications Act, can operate to prevent that. In a Nation of 170 million, leading presidential candidates are obviously not going to be able to present themselves in person to even a significant fraction of the electorate. In States with populations as large as 15 million, even congressional candidates are going to go unseen, unheard, and unmet in person by the vast majority of voters. Only television can bring the living presence and voice of these candidates to virtually every household in the land. Yet television has been trapped by the unrealistic and paralyzing law we have just documented from performing this most vital public service that broadcasting can offer. Television as such has been blacked out, for all practical purposes, from the most important news story in our national life. Television has been told that it can do either the impossible or nothing in bringing to you firsthand the candidates for major offices.

You have seen what President Eisenhower has called the "ridiculous" situation brought about by a law that says that even the President of the United States could not be shown in a news program welcoming a visiting head of state, if the President were a candidate for reelection.

It speaks well for the institutions and people of America that an overwhelming protest has arisen across the country to correct this law. The Nation's press has been alert and forceful in pointing out the folly and dangers inherent in section 315. Congress is now considering legislation to protect news programs, on-the-spot news coverage and panel discussions from the burdensome restrictions of section 315. Enactment of the legislation recommended by the Senate committee is a minimum essential of the freedom of television to help all of us know the candidates and issues in the critical election campaigns of 1960 and the years beyond. With the passage of such legislation, CBS can and will present the major candidates to the extent that the new legislation permits. Without it, we will have no choice but to turn our microphones and television cameras away from all candidates during campaign periods.

I assure you, the American people, that in these types of programs covered by the remedial legislation before Congress, we shall not in any way discriminate among the major parties or among the substantial candidates. All we ask for is the right to distinguish, as any sensible citizen would do, between the major parties and the splinter parties, between the significant candidates and the fringe or obscure candidates. We do not ask for the right to discriminate, only to distinguish. It is possible for the American people to be the best informed electorate the world has ever known. The problem is simply for Congress to act, and to act promptly, so that the 1960 election campaigns will be

freed from the present blackout. Otherwise, in an age when we need most to be fully informed as citizens casting our ballots responsibly, we will be deprived of a chance to see, to hear, to know the candidates who are asking us to trust them with our interests and our lives.

ANNOUNCER. The CBS Television Network has presented "Behind the News With Howard K. Smith."

You have just heard Dr. Frank Stanton, president of CBS, in an editorial statement of the Columbia Broadcasting System's position on section 315 of the Federal Communications Act.

The CBS Television Network will provide time next week for the presentation of opposing viewpoints to that taken in the CBS editorial broadcast by Dr. Frank Stanton today. The exact time will be announced later.

Mr. PASTORE. I yield to the Senator from California for the purpose of offering an amendment.

Mr. ENGLE. Mr. President, I desire to offer an amendment, and I send it to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 1, line 7, it is proposed to strike out the words "or panel discussion."

Mr. ENGLE. The purpose of this amendment is very plain.

The PRESIDING OFFICER. How much time does the Senator yield himself.

Mr. ENGLE. I yield myself 5 minutes. On page 1, line 7, I propose to strike out the words "or panel discussion."

Prior to proceeding to a discussion of the amendment, I compliment the distinguished chairman of our subcommittee on his fairness and the careful attention to detail he gave to the study of this very complicated subject matter. There were several bills on the subject pending before our committee. The chairman gave them long and careful study, and he has been very fair and very generous in his presentation of the matter on the floor today.

In discussing the merits of my amendment, I wish to call the attention of the Senate to the history of section 315, which is covered on page 2 of the committee report.

I call attention to the fact that the Communications Act of 1934 repealed the Radio Act of 1927, and section 18 of the 1927 act was identical with section 315. In other words, language equivalent to the language of section 315 has been in the law since 1927. At that time, of course, it applied almost exclusively to radio. So we have had something like 32 years of experience with the law, and we have had no trouble with it at all. There has not been an amendment to this act of any consequence since it was passed in 1934 in its present form. It is correct to say that language identical with the language in section 315(a) today has been in the law all these years.

It was not until February of this year, when the FCC issued its stupid, silly decision in the Lar Daly case, that we were confronted with any trouble.

What do we propose to do now? We propose to reverse the Daly case, and we ought to do so, because it is not based upon the law. It has no legal basis whatsoever, as has been stated by the Attorney General. I invite attention to his remarks with respect to that particular decision, as they appear on page 19 of the committee report. I would not object to the reversal of the Lar Daly case. I think it has to be straightened out. That case resulted from a situation in which the mayor of Chicago appeared on a program. There were some film clips with reference to certain activities connected with his office of mayor. It was contended that because of that, and since he was a candidate for reelection, his opponents also were entitled to equal time.

In the past election, my opponent was then the incumbent Governor of the State of California. Very naturally, he had access to a great deal of TV time and radio time, since the office of Governor is a ceremonial office. Presumably, under the ridiculous Lar Daly decision, I would have been permitted to ask for equal time when the Governor welcomed the people at the Tournament of Roses or wherever else he acted in his official capacity as Governor.

Mr. KEATING. Mr. President, will the Senator yield?

Mr. ENGLE. Not at the moment, but I will shortly, after I have completed my formal remarks.

What it boils down to is: That in order to overturn a decision which has no sense at all, which has no precedent in history, which relates to an act which has been on the books for 32 years, and under which public officials, politicians, radio stations, and TV stations have operated with no difficulty at all for more than a quarter of a century, we are now, because of this completely silly decision, and to reverse it, undertaking to write a piece of legislation. I favor reversing it. But the bill does more than reverse the decision, and that is why I complain about it.

The PRESIDING OFFICER. The time of the Senator from California has expired.

Mr. ENGLE. I yield myself 5 additional minutes.

I do not object to reversing the Lar Daly decision. But I think that when there is an act which has been in existence for a period of 32 years, and which has not been the subject of complaint from anybody, and about which there has been no difficulty of operation whatsoever, we must confine ourselves to the bare rudiments of legal necessity in order to overturn this decision, nothing more.

But the bill goes much further than that. I have already stated how it goes further. The bill could be honed down so that it would barely cover the Lar Daly case. Then we would be standing upon a precedent of history, and, in my opinion, be on sound ground.

The matter of documentaries goes beyond that. I have not touched that subject, because I think there is some legitimate justification for the provision as to the news documentary. But the matter of panel discussions is something else again. Let me read the language of section 315(a):

If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate.

This is the additional language, as it appears on page 20 of the report:

Appearance by a legally qualified candidate on any newscast, news interview, news documentary, on-the-spot coverage of news events, or panel discussion shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

As I pointed out earlier, if any Member of this body announces his candidacy for reelection, that is something which is newsworthy; he is entitled to appear on television, and that is true also of his opponent. I have no objection to that. That is a newsworthy event.

But panel discussions are something else again. News is a self-limiting factor. News must be current. It can be in the form of an interview or a news documentary. But it must be something of current interest; and thereby the very content of the broadcast limits the accessibility of the act and the abuse of it.

What about panel discussions? One can get into a panel discussion on anything. My opponent used a panel discussion which he paid for, he thought it was so good. Anyone who holds public office can start a panel discussion on something or other; and merely by exposing himself to the public he gets an advantage which he should not have.

I observe one other thing. Almost all the testimony was related to the matter of newscasts, not to other kinds of broadcasts.

For instance, the Attorney General, in his report, said:

In the area of newscasts treating political events, the public interest, to our view, is best served, not by section 315's flat equal time stringencies, but by good-faith adherence to licensees' time-honored obligations of insuring fair and balanced presentation of programs where political or other noncontroversial issues are treated.

I agree with that; and that applies to four categories of news. But this is what the Attorney General said:

On the other hand, the wisdom of legislation exempting more than routine newscasts from section 315—for example, panel discussion, debate, or similar-type program (S. 1585 and S. 1858) or special events (FCC proposal)—poses basic questions of public policy on which this Department has no special competence.

The Antitrust Division of the Department of Justice refused to go along with any extension into the field of panel discussions, public debates, and special news events.

So that broadens the case. If there were merely public debates, there would not be any limitation whatsoever. So the opportunities for abuse in this particular section are those which concern me the most. I call attention to what the committee said in its report—and it is an excellent report:

The equal time provision of section 315(a) was designed to assure a legally qualified

candidate that he will not be able to acquire unfair advantage over an opponent through favoritism of a station in selling or donating time or in scheduling political broadcast.

In other words, the committee in making its report very clearly stated the purpose and the function of section 315(a). The purpose and function of section 315(a) is to prevent a candidate from acquiring an unfair advantage over an opponent through favoritism of a station.

That is what the committee was seeking to do. When we give stations the opportunity to move into the news field, with newscasts, news inventories, news documentations, and on-the-spot coverage of news, it seems to me we have gone far enough, because that even includes the announcements of candidates; or if a candidate were kicked by a horse, I suppose that might be included also.

But panel discussions go to the point where it is possible to intrude into the field of favoritism and thus violate the basic intention of the law, the purpose for which it was passed and for which it has been on the books for a period of 32 years, during which time there have been complaints about it, and no difficulty with it, until the Lar Daly decision.

I say let us overturn, let us repeal, that decision. Do that only; do nothing more. Leave on the books as it is a law which has historically shown that it is workable, that it is good, that it is practical.

Mr. CARROLL. Mr. President, will the Senator from California yield to me?

Mr. ENGLE. I am glad to yield.

Mr. CARROLL. Will the Senator from California state what are the sanctions under section 315(a) which will be applied if the intent of the law is violated? What sanctions can be applied against a violator?

Mr. ENGLE. A violator can be required to give equal time; and if he fails to do so, his license will be jeopardized.

In many cases in the past we have had occasion to challenge a station with regard to the equal time requirement. In most instances they provide equal time. Of course, that is what is complained about in connection with the Daly decision. That decision is broad enough so that if the mayor of a city appeared at the airport, to meet a distinguished guest, and if at the same time he was a candidate for reelection, equal time would have to be provided.

Mr. CARROLL. Mr. President, will the Senator yield further to me?

Mr. PASTORE. Mr. President, I have sufficient time; and I yield 5 minutes to the distinguished Senator from Colorado.

The PRESIDING OFFICER (Mr. MUSKIE in the chair). The Senator from Colorado is recognized for 5 minutes.

Mr. CARROLL. Mr. President, let me ask whether the only possible sanction would be revocation of the license. If that is the only sanction, I wish to refer to the remarks of the distinguished Senator from Washington, who, as I recall, said that there has almost never been a revocation of a license.

In view of that statement, I ask my distinguished friend, the Senator from Rhode Island, to be very careful on this point. All of us should be very careful that in attempting to remedy an existing inequity, we do not create a new loophole—in this instance, as regards panel discussions.

We recognize that some inequities do exist at the grassroots. I think the record should be crystal clear as to our intent in connection with this situation. We should be very careful not to open new loopholes.

Furthermore, if this measure is enacted into law, the committee should carefully observe its operation, and if information in regard to violations comes to the attention of the committee, it should see to it that the proper sanctions are imposed.

Is there anything wrong with what I have proposed in this respect?

Mr. PASTORE. No; but let me say that the proposal is to include these exemptions under the general terms and provisions of section 315 of the act. If that is done, and if there is a violation of an exemption, it will then not be an exemption at all. Therefore the case will automatically come under the main body of the act, which will mean that the violator will be subject to the provisions of section 315. That will mean that another candidate will be entitled to the same amount of time. If the station refuses to allow the same amount of time, the station will be subject to revocation of its license or to application of the penal provisions of the act.

But I repeat that I am trying to be very realistic in my attitude regarding this matter; and we included the words "panel discussion" in order to have this issue debated thoroughly on the floor.

I am very much impressed by the view of a considerable number of Members of the Senate that possibly panel discussions should not be included in the exemptions. Other Senators believe they should be included in the exemptions. If the Senate decides by majority vote that panel discussions should be included in the exemptions, then the Senate will have expressed its view.

Mr. CARROLL. I thank the Senator from Rhode Island. It seems to me that such a provision would broaden the bill beyond its original intent.

Originally, we sought to deal with a bad situation which had developed. Certain exemptions have now been proposed. But even with those exemptions I believe we should watch the situation in our own areas; and if we observe violations of these exemptions, we can proceed, in the way the distinguished Senator from Rhode Island has described, to remedy the situation.

Certainly, adequate safeguards must be provided in connection with the operation of radio and television stations. Today, television is a most important political medium. Whereas years ago candidates would stand on street corners and speak to a few hundred people at a time, today a candidate, over television can reach thousands and even millions of people in one appearance.

In my political campaign, my opponent purchased all available television time. I said to the owner of one television station, "Put a stop to this, or I will call this situation to the attention of the authorities in Washington."

Certainly, we must watch the political aspects of this medium, which is the most important of all communication media in the field of politics.

I sincerely hope that the panel discussion amendment of the junior Senator from California will be excepted. I believe we have now gone far enough. In the future, after the law has been operative, we can determine how successfully the committee's provisions have been working. If further amendment is indicated we can do so then.

Mr. PASTORE. I thank the Senator from Colorado.

Mr. HOLLAND. Mr. President, will the Senator from Rhode Island yield for a question?

Mr. PASTORE. I yield.

Mr. HOLLAND. I think the point I have in mind was emphasized earlier in the Senator's remarks. Certainly I believe all of us should remember that the purpose of the bill is not to benefit the politicians or the candidates or the station, but instead, to enable what probably has become the most important medium of political information to give the news concerning political races to the greatest possible number of citizens, and to make it possible to cover the political news to the fullest degree. Is that correct?

Mr. PASTORE. Certainly that is correct.

Mr. CARROLL. And to be handled in the public interest.

Mr. HOLLAND. That is also correct.

Mr. PASTORE. Mr. President, the opposition to the amendment is ready to yield back the remainder of the time under its control.

Mr. ENGLE. Then, Mr. President, I yield back the remainder of the time under my control.

Mr. PASTORE. I do the same.

The PRESIDING OFFICER. All remaining time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from California [Mr. ENGLE].

Mr. CASE of South Dakota. Mr. President, I ask that the amendment of the Senator from California be read.

The PRESIDING OFFICER. The amendment of the Senator from California will be read.

The CHIEF CLERK. On page 1, in line 7, it is proposed to strike out the words "or panel discussion."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

Mr. KEATING. Mr. President, let me say that I am not entirely satisfied that the way to meet the problem dealt with by the amendment of the Senator from California is to strike out the words "or panel discussion."

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Rhode Island will state it.

Mr. PASTORE. Is any more time available? If not, I withdraw my yielding back of the time remaining under my

control, in order that I may yield time to the junior Senator from New York.

Mr. JAVITS. Mr. President, I should like to have some time on this amendment, too.

Mr. PASTORE. Mr. President, I ask unanimous consent that the yielding back of the remaining time be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PASTORE. Now let me ask how much time remains under my control.

The PRESIDING OFFICER. Ten minutes on the amendment.

Mr. PASTORE. I yield 5 minutes to the junior Senator from New York [Mr. KEATING].

Mr. ENGLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from California will state it.

Mr. ENGLE. How much time remains under my control?

The PRESIDING OFFICER. One minute.

Mr. ENGLE. I thank the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island has yielded 5 minutes to the junior Senator from New York [Mr. KEATING], who is recognized at this time.

Mr. KEATING. Mr. President, I am entirely in sympathy with the attempt to remedy the rather ridiculous result achieved in the Lar Daly case. But I do not believe that in a comparable situation, if a major candidate had been taking part in a panel discussion, it would have been necessary to require that Lar Daly be allowed to participate in the same panel discussion.

I am very much concerned about a problem which exists in New York State. That problem is rather the reverse of the one which has been referred to by the distinguished Senator from Florida [Mr. HOLLAND], who spoke about the situation in one-party States. In New York, there are three significant parties—two major parties and a really significant third party, the Liberal Party.

In 1952 the third party polled 410,000 votes out of 7,300,000 votes, or approximately 5 percent. In 1956, out of 7 million, that party polled 300,000, or roughly 4 percent. In 1958, in the gubernatorial election, out of a total of 5,200,000 votes, that party polled 270,000, or approximately 6 percent. So it is certainly a significant party, whose rights should be protected.

It is my feeling that if there were a panel discussion or any other appearance which was apart from the presentation of news, a representative of the Liberty Party in an election should be included.

I have prepared, and am prepared to offer, an amendment to meet that situation, which would add on page 1, at the end of the page, the words: *"Provided, however,* That such exemption shall apply only where the appearance of the legally qualified candidate is incidental to the presentation of news."

I have submitted that proposal to the distinguished Senator from Rhode Island. He rather feels it is better not to make it a part of the pending legislation, although I understand from him that in the discussion had in the Senate, and, indeed, in the report of the committee, it is understood that the exemption which the committee has written into the bill is intended only to be applicable where the candidate's appearance is incidental to the presentation of news.

It does not seem to me, however, that we should take any step here to largely destroy the effect of the bill. It seems to me it takes a great deal out of the bill if we are going to make possible, in effect, that in every single panel discussion the appearance of every legally qualified candidate is going to be required.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. KEATING. May I have 1 additional minute?

Mr. PASTORE. I yield 1 additional minute to the Senator from New York.

Mr. KEATING. I would be happy to hear the Senator from Rhode Island if he has a different view, but it appears that might be the effect of eliminating the provision. I would rather see the provision remain in the bill and language added to it, perhaps not precisely the language I have suggested, but language along those lines.

Mr. PASTORE. Mr. President, the committee labored industriously on the question. The fact of the matter is that when we begin to define or limit what a panel discussion is, we run into, as I said before, many, many ramifications. I do not think we could write such a provision on the floor of the Senate. I could say, however, that a panel discussion, as presently contained in the bill, would be exempted from the provisions of section 315, which would mean that a station would not be obliged to give equal time to opposing candidates. There are those who argue that a panel discussion is not generally what we are trying to cure because of the Lar Daly decision.

I was not wedded to this provision to the point that I would advocate and press for its adoption on the floor. I wanted a discussion of it. In executive session, I advised the committee that if the provision jeopardized passage of the bill, I would be willing not to have the panel discussion provision included in the bill, because I understand it is not included in the House bill, anyway.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Rhode Island has 3 minutes.

Mr. PASTORE. I yield 2 minutes to the Senator from New York [Mr. JAVITS].

Mr. JAVITS. Mr. President, I think a word needs to be said about panel discussions, which are really an integral part of the American process of debate. Before we vote on the amendment, I would like to state that it should not be adopted. I think we should preserve panel discussions, and not make the requirement ridiculous. I refer to the opportunity of Americans to hear face-to-face debate by opponents. Let us not forget the right of the television viewer to turn the knob if he does not like what he sees or hears. Let us not forget that Congress is a dynamic agency, and if the broadcasting systems abuse their facilities, Congress can adopt another regulation by passing a bill to that effect.

Let us not be wearing blinkers in terms of problems we face in daily decisions, but let us realize the broad public interest which is inherent in panel discussions.

When we had the civil rights debate, I think the most important aspect in informing the American people was the debate four of us had in the old Supreme Court Room, on television, between the hours of 10:30 and 12:30 at night. It made the greatest impact on the people, and they knew what we were talking about. At that stage, if there were 8 or 10 people to discuss it, it would have been ridiculous; and Frank Stanton says they will not do it. They have a right to say "No" completely. We want them not to have to say "No." I think at this stage, when we are experimenting with this matter, we should not strike out the inclusion of panel discussion in the bill.

In this connection, I should like to introduce into the RECORD and ask unanimous consent to have printed as a part of my remarks an article concerning the observations of Mr. Stanton, president of the Columbia Broadcasting System, and also an editorial from the Buffalo Evening News, of Buffalo, N.Y., entitled "A Ridiculous Ruling."

There being no objection, the article and editorial were ordered to be printed in the RECORD, as follows:

[From the New York Times, July 27, 1959]

STANTON APPEARS ON TV TO PLEAD FOR CURB ON EQUAL-TIME RULE

Frank Stanton, president of the Columbia Broadcasting System, went on the air yesterday to plead for prompt congressional action to relieve radio and television news broadcasts from equal-time restrictions.

"If such action is not taken," he said, "we will have no choice but to turn our microphones and television cameras away from all candidates during campaign periods."

Mr. Stanton stated his network's stand on the equal-time issue at the end of a CBS "Behind the News" television program devoted to a discussion of section 315 of the Federal Communications Act of 1934. This is the so-called equal-time section, dealing with political candidates.

The effect of a recent ruling of the Federal Communications Commission is that the networks must, in their news coverage during a political campaign, give equal time not only to substantial candidates but to every fringe candidate who throws his hat into the ring.

This, according to Mr. Stanton, is impossible. Referring to the 1960 presidential campaign as the "most important story in our national life," he said television coverage had been virtually blacked out by the ruling.

"Television has been told," he continued, "that it can do either the impossible or nothing in bringing you firsthand the candidates for major offices."

Mr. Stanton reminded his listeners that remedial legislation was pending in Congress. A Senate bill stipulates that newscasts, news interviews, news documentaries, on-the-spot coverage of news events and panel discussions will be exempted from section 315.

A House bill stipulates that newscasts, news interviews on any on-the-spot coverage of news events in which the appearance of the candidates is incidental to the presentation of the news will be exempt from section 315.

Mr. Stanton described the Senate bill as a "minimum essential of the freedom of television to help all of us know the candidates and issues in the critical election campaigns of 1960 and the years beyond."

He promised that, if remedial legislation passed, the broadcasters would not discriminate among the major parties or among the substantial candidates.

"All we ask," he said, "is the right to distinguish, as any sensible citizen would do, between the major parties and the splinter parties, between the significant candidates and the fringe or obscure candidates. We do not ask for the right to discriminate—only to distinguish."

[From the Buffalo Evening News, March 21, 1959]

A RIDICULOUS RULING

A recent ruling of the Federal Communications Commission in reference to political broadcasts requires amendment, clarification or, better still, outright repeal.

As the matter now stands, no matter how fair or honest a radio or television station may be, or tries to be, in respect to political broadcasts or news reports of political events, the February 19 ruling of the Commission practically makes it impossible to conform without opening the door to all sorts of weird and wild requests for "equal time" to reply.

The ruling appears to be a new concept of section 315 of the Communications Act. Whether this is valid, or straining to stretch a point, isn't clear. It is clear, however, that it will require prompt action either by Congress or the Commission itself if freedom is to be restored to the airways.

On the one hand the Commission urges radio stations to "editorialize" on the air, and on the other it puts into effect this new requirement which would suggest that any responsible broadcaster would be out of his mind if he did so.

The ruling is so far-fetched that President Eisenhower has taken the almost unprecedented action of asking the Attorney General of the United States to see what can be done about it, whether the remedy lies in legislative action by Congress or otherwise.

Speaking for the President, and with his authority, White House Press Secretary James C. Hagerty said:

"The emphasis here is that it is ridiculous to have the law tell radio stations they have to give equal time in the coverage of news."

Dr. Frank Stanton, president of CBS, has pointed out in connection with the ruling that had the FCC ruling been in effect in 1956, that network would have been required to give equal time on regular newscasts to 24 presidential and vice presidential candidates of 12 parties, most of which wouldn't be recognized by the general public. The same requirement would have been imposed upon the News stations, which always have prided themselves in giving fair political coverage, or to any other station which carried these network programs. It imposes an impossible condition.

Chairman John C. Doerfer, of the FCC, speaking in Chicago this week, said that strict interpretation of section 315 would emasculate radio and television news coverage during campaign periods, and, he might well have added, at other times. He said if the section is not repealed or amended by Congress before the 1960 presidential campaign the public inevitably will be denied the opportunity to see and hear candidates. We don't know why he limited his remarks to 1960; a local election campaign is coming, and the ruling of the Commission could have the same effect on local campaign coverage here and elsewhere.

The courts, of course, might take a hand in the matter, but that would entail much delay, without certainty of relief. Wouldn't it, perhaps, be better for the FCC to take another look at the law, the many and long-standing previous rulings based upon it and determine whether this new and strained interpretation is in fact what Congress intended? If it had, we are inclined to think that fact would have been discovered long ere now.

Mr. JAVITS. Mr. President, I repeat, we are venturing into an area where we are trying to change a situation which has proved to be embarrassing. In the haste of trying to do something about that situation, let us not eliminate what I consider to be one of the great capabilities of the American people for having a knock-down, drag-out, face-to-face debate, to wit, a panel discussion which can do them the most good.

The PRESIDING OFFICER. All time for debate on the amendment has been exhausted. The question is on agreeing to the amendment of the Senator from California [Mr. ENGLE].

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. LONG. Mr. President, I have an amendment at the desk. I believe I should like to call up my amendment No. 1.

The PRESIDING OFFICER. The amendments offered by the Senator from Louisiana will be stated.

The CHIEF CLERK. It is proposed to strike out section 2(a) on page 2, lines 1 to 7, inclusive.

On page 2, line 8, it is proposed to strike out "(b)."

On page 2, after line 19, it is proposed to insert the following: "Section 1 of this Act shall expire on June 30, 1960."

Mr. LONG. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Louisiana has 15 minutes.

Mr. LONG. I yield myself 5 minutes at this time.

Mr. President, even with the action the Senate has taken on the last amendment, which I believe to be desirable, and for which I voted, it seems to me this bill would nevertheless permit great discrimination in favor of a particular candidate if stations so desired.

I have no particular complaint about how the junior Senator from Louisiana has been treated by television stations. By and large, they have been kind to me. I would not say they have ever discriminated against me. I think Senators in general, particularly the incumbents, have been treated very favorably by television stations. But I know what tremendous power the television industry has in this Nation.

If there is an effort to amend the basic laws of this Nation with regard to television, if there is an attempt to amend those laws contrary to the wishes of CBS, NBC, ABC, and the other networks, let me tell Senators the probabilities are they are up against a hopeless task.

I recall a year or two ago when someone wanted to experiment with the issue of color television. We had a great dinner given by the Columbia Broadcasting System and its affiliates at one of the large Washington hotels. There were present a quorum of the Senate and a quorum of the House of Representatives. There was a marvelous program. It was one of the finest programs ever presented in Washington with the stars of TV performing.

I imagine most of the stations did the same thing. The next day the home State stations or some of them, invited Senators to appear on little discussion programs, to be played in the home States, discussing views on various and sundry issues. Some of us gained thereby some idea of the tremendous influence these stations have.

Once we give these television stations a broad, open exemption, I personally believe the burden will be more than any Senator can bear to prove that the Congress went too far.

Let us see what can be done under these provisions. Under the bill, as reported by the committee, a television station would have the right to use or not to use the appearance of any Senator, any Representative in Congress, any candidate for President or even for sheriff on a news program. As pointed out, a news program usually runs only 5 or 10 minutes. We can look at the ticker, or can pick up a daily newspaper, and we can see enough information to keep us busy for 1 hour, 2 hours, or 3 hours, depending upon how much time we want to devote to it.

The proposed statute provides:

> Appearance by a legally qualified candidate on any newscast, news interview, news documentary, or on-the-spot coverage of news events shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

In other words, it will be construed that these persons were not even using the broadcasting station. That is a power to discriminate, as I interpret it, which is wide open. The man shall not even be regarded as having been on the air, if he is favored on a news broadcast.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. PASTORE. The Senator should read all of section 315, which provides that no legally qualified candidate can make use of this. The question is, Is the candidate making use of it?

For instance, if the Senator should participate in a committee hearing and if, while the Senator is present, the television cameras go on, would the Senator be making use of the facility so that the Senator's opponent in Louisiana would be entitled to equal time? That is exactly what we are talking about.

Mr. LONG. I am very limited on time. I am addressing myself at this moment not to whether the legislation is necessary. What I am saying is that the matter should be carefully studied. The committee itself recognizes this is a matter we should carefully study and watch. We should have a 3-year study and a 3-year "watchdog" proposition, to see what will happen.

All I am saying is that if the bill is passed and the law proves to be too

favorable and to give too much wide-open exemption to television stations, the burden would be almost unbearable for a Senator who wanted to change the law and to overcome the inertia, as well as the opposition, of the united television industry. The industry is going to like all of these privileges and immunities which they are being given, including the power to discriminate, under this bill.

In fact, for many years it was argued that there should be complete freedom of the air, to say anything they wanted to say and to discriminate however they wanted to, even though it favored one side completely.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

Mr. LONG. Mr. President, I yield myself 5 more minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 5 additional minutes.

Mr. LONG. Mr. President, I submit that we should place upon the Congress the burden of watching this matter very carefully for the next year, to see how it will work out. If it tends to work out fairly, if there is not too much discrimination one way or the other, and if we think both sides are getting an equal break when something is newsworthy, it will be all right. If the stations favor one candidate when something is newsworthy, by picking it up, but if they also pick up a news item on another candidate, favoring the other side, so that they do not single out one side and give that side all the advantage during the next 2 or 3 years, we can say it has worked out well. If it works out well we can continue it. If it does not work out well, then we will not have to overcome the tremendous inertia which will develop, to try to get a bill through the Congress to amend the Communications Act, over what might be the overwhelming opposition of NBC and CBS and all the affiliated stations.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. LONG. I yield to the Senator from Illinois.

Mr. DOUGLAS. Is it not possible that the television and radio stations would be on their good behavior, so that if the limitation were placed for only 1 year, nothing would be accomplished? Let us assume that the year expired the 1st of September 1960. These stations could be on their good behavior during the intervening period. Then, on the basis of good behavior, if we were to put this provision into effect, in the last 2 crucial months of the presidential election of 1960 they might be able to do all they wanted to do. And that might be plenty.

Mr. LONG. Of course that is a possibility, but at least under the amendment I am suggesting we would know we had not turned this privilege loose irrevocably.

Mr. President, after all, these news programs are some of the programs which are most listened to. I know some Senators and Representatives in Congress are learning, from sending reports back home, that they are sometimes a lot better off to have 1 minute on a news program than they are to have 15 minutes on some other program, because the public tunes in the news programs.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. PROXMIRE. There is a good deal of truth in the suggestion made by the Senator from Illinois, and I wonder if the Senator from Louisiana would be willing to modify his amendment to provide that it will expire as the appropriations expire, each year. That would put the radio and television networks and stations on their good behavior from now on. It would then be necessary for the Congress to pass a bill each year. I am sure there would be no trouble in getting a bill passed, so long as the stations were behaving themselves. If they got out of line, it would be much easier for Congress to take the necessary action.

The basic point which has been made by the Senator from Louisiana is a very sound one, and excellent. It makes all the sense in the world. The Senator is very correct, it is obvious it would be very difficult to get a majority of the Senate and a majority of the House of Representatives, and the President of the United States—all three—to act against the major networks, since we know they would be against the Congress in such a case.

Mr. LONG. Mr. President, some Senators perhaps have not taken this into consideration, but let us assume that we pass a wide-open exemption to discriminate in any fashion these stations feel like discriminating in their news and interview programs. Let us assume that the television stations go all the way.

The press is often highly prejudiced on one side. Let us assume that the television stations are just as highly prejudiced. After a year we could assume that they might be so successful that the candidate for whom they discriminated would be elected. Then, if the Congress passed a bill to amend the law, if it were sent to the President, he might veto it because he had received all the benefit of that discrimination. That might be the source of a great deal of difficulty.

If we have an expiration date provided, and if we are not satisfied that the law is what it ought to be, we would at least, after a year, be in a position to do something. It would not be a wide-open discriminating provision. It would be possible to say, "Very well. Let us change the law." We would not have to go quite as far to overcome the inertia and opposition.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. PASTORE. Does the Senator realize that we have deleted the words "panel discussion," and that for the last 32 years we have lived almost under the situation described by these exceptions insofar as news is concerned? The only trouble is that the Commission, which had sustained the position under the Blondy case, then last February under the Lar Daly case swung completely to the other side.

The PRESIDING OFFICER (Mr. ENGLE in the chair). The time of the Senator from Louisiana has expired.

Mr. PASTORE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 2 minutes.

Mr. PASTORE. The Commission overruled its own position, which was established in the Blondy case, and said that any exposure on a newscast, which means, in my opinion, any on-the-spot coverage of news events or a news documentary, would entitle the opposition candidate to equal time.

What the Senator is proposing is to have the exceptions expire by June 30, under the amendment. We might as well be opposed to the bill.

Mr. LONG. June 30, 1960.

Mr. PASTORE. 1960. We might as well leave everything as it is, because most candidates will qualify around June 30. We will not have much experience until then. Most of the States begin to accept the candidates who file their initial papers around the 1st of July. I will tell Senators quite frankly that what is being actually proposed is to vitiate the entire bill. The Senator is actually saying that we have wasted our time in committee. If we allow the law to expire automatically on June 30 we shall have wasted a great deal of time, and we shall not get the experience the Senator from Louisiana would like to get.

Mr. LONG. Prior to the passage of the bill, is the Senator prepared to tell me that the law is such that a television station can devote all its news to one candidate, and none of it to his opponent?

Mr. PASTORE. Provided it is a legitimate newscast, as prescribed under the rules and regulations of the Commission.

Mr. LONG. Suppose two candidates are making news, and there is plenty of it on the board about the two candidates—enough to fill up a news program with either side. Is the station permitted to select all the news involving one candidate, and no news regarding the other?

Mr. PASTORE. Absolutely. The only thing section 315 prohibits is exposure of the candidate himself. I could get on a station and talk until the cows came home about the Senator's candidacy. The station would give me free time, and I would violate no law, except the general provision that the station must be fair, in order not to jeopardize renewal of its license. There is no violation of section 315 because the station editorialized, or because it allowed a second party to speak for the candidate himself. It is only a case in which the candidate himself is exposed on a newscast or spot news item, that the opposition candidate is entitled to equal time. Therefore, when the mayor of the city of Chicago, who was a candidate for reelection to the office of mayor, was seen on a television show shaking hands

with and welcoming to Chicago Mr. Frondizi, President of the Republic of Argentina, Mr. Lar Daly, a candidate for the same office of mayor, asked for equal time, and the Commission, in spite of the well-established rule under the Blondy case, reversed itself, and said, "You are entitled to equal time."

In other words, if one happens to be a candidate, and makes a speech on any subject whatever, even on the stars in the flag of the United States, and he sends his voice over the radio or appears on television, his opponent will be entitled to equal time, if it is a news item.

The idea of automatically repealing the law on June 30, would mean that we would have wasted the time of the committee and wasted the time of the Senate. We might as well vote the bill down.

Mr. LONG. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Louisiana has 5 minutes remaining.

Mr. LONG. I yield myself 3 minutes. If I can read what the bill says—and believe I can—the bill provides—and if it does not do it, there is no use in passing it—a wide-open power and right to discriminate on the part of the television station, on its news programs; and provides a wide-open right to a station, without any qualifications whatsoever, if it desires to do so, to devote its news programs exclusively to one candidate for Representative in Congress, Senator, or county judge, and put him on a news program, without providing equal opportunity for another candidate.

The committee says, "We are very much worried about this situation. We are going to have a watchdog committee." The committee wishes to watch the situation for 3 years, and it wants the Federal Communications Commission to help watch it.

Let us set a date when the law will expire, so that we shall have another look at the situation. We do that in connection with tax bills every year. We did within the past month, in extending excise taxes for another year. Why did we not extend them indefinitely? Because we wanted to have another look. If we can do that in the case of excise taxes involving $3 billion a year, we can do it in this case, in connection with something with respect to which we really do not know very much. We really do not know what we are doing. The committee in effect says so on page 2 of the bill. Why should we not then assure ourselves the opportunity to take a second look? The committee says, "We should take another look in 3 years." I say, "Let us look at the situation a year from now."

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. LONG. I yield the floor for the time being.

Mr. PASTORE. Under the laws of Louisiana, what is the earliest date on which the Senator could make himself a legally qualified candidate?

Mr. LONG. For what office?

Mr. PASTORE. For the office of Senator?

Mr. LONG. The term does not expire for 3 years.

Mr. PASTORE. Let us assume that it was expiring next year.

Mr. LONG. I assume that a candidate for the office of U.S. Senator could probably qualify about March or April of next year.

Mr. PASTORE. By entering the primary?

Mr. LONG. Yes. There will be a gubernatorial race even sooner—it is starting right now, and will conclude on December 5 of this year.

Mr. PASTORE. In my State a candidate could not qualify much before July. There are many States in which a candidate could not qualify for the office of U.S. Senator before July 1960.

Mr. LONG. There will be plenty of experience in Louisiana. A number of candidates are qualifying right now for the office of Governor of Louisiana.

Mr. PASTORE. Let us be positive about this. Generally all we are doing is restoring the situation insofar as news is concerned to that which existed for 32 years, before the Lar Daly decision. News is the primary objective, now that we have eliminated panel discussion. Let us get back where we were essentially before the ridiculous decision in the Lar Daly case.

Mr. LONG. If I interpret the bill correctly, it goes far beyond the Lar Daly case.

Mr. PASTORE. In what respect?

Mr. LONG. The bill says that a candidate shall not be deemed to be using a broadcasting station within the meaning of this section when he appears on a news broadcast.

Mr. PASTORE. It merely means that a legally qualified candidate is not using the station for a purpose with respect to which his opponent would be entitled to equal time unless a certain situation exists. We must read the entire sentence. Of course the station is being used, but the legally qualified candidate is not using the station for his own advancement to the point where an opponent is entitled to equal time.

Mr. LONG. And when we say that, we are saying that if the station so desires, it can have the candidate it is favoring on the air during every news program every day of the week for the last 3 months before the election, and we cannot do anything about it.

Mr. PASTORE. Oh, yes; we can.

Mr. LONG. What can be done?

Mr. PASTORE. The Commission can say, "That is not a proper use of the exemption, and therefore the opponent is entitled to equal time."

Mr. LONG. Can the Senator tell me where that appears in the bill?

Mr. PASTORE. Read the whole law. Read section 315, along with the amendment, and no other interpretation is possible.

Mr. LONG. Will the Senator show me that language?

Mr. PASTORE. Certainly.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

Mr. PASTORE. Mr. President, how much time have I left?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. PASTORE. Section 315(a)——

The PRESIDING OFFICER. Does the Senator yield himself further time?

Mr. PASTORE. I yield myself 2 minutes.

Section 315(a) reads as follows:

> SEC. 315. (a) If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station—

That is still in the law—

> *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section.

Then we add this language, which is the exemption:

> Appearance by a legally qualified candidate on any newscast, news interview, news documentary, on-the-spot coverage of news events, shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

If the station or facility is being used for a newscast, it is exempted. If it is not a newscast, there is no exemption; such use still comes under the body of the law.

What is a newscast? We are saying to the Commission, "Tell us what it is, and make rules and regulations, so that all may know."

What is a news documentary? We say to the Commission, "Define it by rules and regulations."

If any station deliberately and willfully features one candidate against another, under the guise of a newscast, the Commission can say, "This is not a legitimate exception or exemption. This is not a legitimate use of a newscast. The opponent is entitled to equal time, as the law provides."

How can the law be made any clearer than that?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Louisiana has 2 minutes remaining.

Mr. LONG. Mr. President, I submit that the distinguished and able junior Senator from Rhode Island has failed to meet the burden of my argument. He is saying that if a station misuses the power he proposes to give it, if it calls something news when it is not news, and thereby favors one candidate repeatedly, every day of the week, there will be some recourse even under the law as he would seek to amend it. What I am talking about is a station which discriminates, world without end, day after day, in connection with presentation of legitimate news.

There is a gubernatorial race starting in Louisiana today. The candidates are already in the field making speeches. From now until December 5, under this statute, there will be news all the time in the newspapers. There will be stories

about all the candidates. That will all be legitimate news. A station could repeatedly favor one candidate every day of the week, so long as he was appearing on a newscast. What better evidence is there of the fact that it is news than that newspapers are playing up the subject on page 1? The station could deny all other candidates any right to appear.

All I am asking is, Why do we not give the new law a 1-year trial and see how it works for a year? Then we can determine whether we were right in granting the exemption. In Louisiana we shall have some idea within the next year as to whether or not the situation is being handled fairly, because a race for Governor is in progress. We can see how the new law works, and if it goes too far we can do something about it. The committee's own report shows that it wants the Federal Communications Commission to study the problem for 3 years before turning loose its own handiwork.

Let us follow the precedent we have followed repeatedly, a precedent which almost every committee has followed from time to time, when it brings before the Senate a bill and says "this is the best we can do for the moment." Let us establish an expiration date so that we can be sure we will get another look at it. The best way to be sure is to put such a date in the bill.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

Mr. PASTORE. How much time have I left?

The PRESIDING OFFICER. The Senator from Rhode Island has 6 minutes remaining.

Mr. PASTORE. Mr. President, I reiterate this exemption must be read in the full context of section 315. I do not know how to emphasize this any more than I already have.

The Commission is obliged under the bill to promulgate rules and regulations which will define a newscast, a news documentary, and on-the-spot news coverage.

Now that we have taken "panel discussions" out of the bill, I submit to the Senate that generally insofar as news is concerned we are in no different position than we have been for the past 32 years up until last February when the Lar Daly case was decided.

What was the Lar Daly case? What is the situation to which the distinguished Senator from Louisiana would have us revert?

Here is the mayor of Chicago, a candidate for re-election. He shakes hands with a foreign dignitary, which television shows, and his opponent came along and said, "You have got to give me equal time." He dressed himself up in a suit as Uncle Sam and made a speech over the radio or television that was absolutely unconnected with any dignitary. That is a ridiculous situation, and that is what confronts us now.

An argument might have been made that provision for a panel discussion was an extension of the old law. The Senator from Rhode Island agreed that it was, and explained his position on that point, but now that we have deleted panel discussions from the bill the Commission is duty bound under this amendment by rule and regulation to tell us exactly what is meant by a newscast, a news documentary, and on-the-spot news coverage.

If we let the new law expire as of June 30, we are wasting our time. Sufficient time would not be afforded to judge whether the law is good or bad. If there are any abuses which cannot be cured administratively, they can be cured by enacting additional legislation. We can watch the situation very closely.

What is wrong with that? Is it suggested that the committee did not know what they were doing after listening week after week to witnesses, sitting in executive session, with the purpose of making doubly sure of our objectives under section 2?

I say to my distinguished friend, the Senator from Louisiana, if he insists upon his amendment and if the Senate favors the amendment, I would rather see the Senate vote the bill down because we would be re-establishing the ridiculous situation which has been brought to the fore by the Lar Daly decision.

That is my position pure and simple.

I know the Senator from Louisiana is of good intention. I know that there have been abuses, but they can be eliminated. I know that this bill is not foolproof in every respect. It is impossible to write a law that will be completely foolproof, but I do not like the idea of letting it expire automatically by June 30, starting hearings again, and being caught again in a pinch.

If it is desired to place a blackout on the people of this country, if we want to stop all important news of political campaigns getting to the American people, let the Lar Daly decision stand. Let the Senator's amendment prevail and there will be a complete blackout.

If the President of the United States were a candidate for reelection he could not stand up in front of the American flag and report to the American people on an important subject without every other conceivable candidate standing up and saying, "I am entitled to equal time."

Mr. LONG. The hearings to which the Senator referred started on June 18. If his committee can draft proposed legislation between June 18 and now, a period of 6 weeks, does not the Senator from Rhode Island think Congress can legislate on the matter in another year, after we have had some experience with the Senator's bill?

Mr. PASTORE. That is not the point. The Senator from Louisiana by his own admission stated that the campaign will not get into operation in Louisiana until March or April.

Mr. LONG. I said that now in Louisiana there is a campaign going on.

Mr. PASTORE. No, but the law will not apply. There are no legally qualified candidates in Louisiana now.

Mr. LONG. When this bill is placed on the statute books I hope it will have some effect.

Mr. PASTORE. I hope we do not write a law for the sake of Louisiana only. I do not regard Louisiana as the only basis for determining what is a wise law and what is a foolish law.

Mr. LONG. I do not offer the amendment to apply this only to the State of Louisiana.

Mr. PASTORE. I say to my distinguished friend, please read the hearings; please read the report; please read the bill.

Mr. CARROLL. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I yield to the Senator from Colorado.

Mr. CARROLL. I think the Senator from Rhode Island has been eminently fair. We have knocked out "panel discussion," which I thought cured a very serious defect.

I should like to call the attention of the Senator from Louisiana, who has a right to express some fear, that by what we do today we cannot bind what the Congress may do next year, but as I read the bill the Congress is declaring its intention to reexamine the subject at or before the end of the 3-year period.

I should like to make a suggestion which, perhaps, would make some Senators more happy. We could strike that out and provide for a reexamination from time to time, and provide for a report 15 days after the first of the year, and every year thereafter.

Mr. President, is there any time remaining? Does the Senator from Rhode Island have any additional time?

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. MANSFIELD. I ask unanimous consent that an additional 2 minutes be allowed on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARROLL. I understand exactly the worry and the concern of the Senator from Louisiana. He made a very brilliant argument. But it seems to me we have got about as much protection in this bill as we can get at this time. Why? Because we are really operating, as the distinguished Senator from Rhode Island has said, under a law that has been in existence now for some 32 years.

What are we saying to the Commission? Report to the Congress on a number of occasions by telling us what the situation is. We can move next year if the information is bad. That is way I sought to make clear in the RECORD that the sanction provisions of this proposed law are to apply immediately if there is an abuse of the exemptions which we now grant by statute.

I think the able Senator from New York [Mr. JAVITS] made a very fine point about panel discussions. It may be that next year we can consider panel discussions, how to broaden their application.

Under the circumstances I think this is about as good a bill as we can have today.

The PRESIDING OFFICER. All time on the amendment has expired. The question is on agreeing to the amendment offered by the Senator from Louisiana [Mr. LONG]. [Putting the question.]

The amendment was rejected.

Mr. PROXMIRE. Mr. President, I call up my amendment and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On the first page, line 9, after the period, insert a comma and the following: "but nothing in this sentence shall be construed as changing the basic intent of Congress with respect to the provisions of this act, which recognizes that television and radio frequencies are in the public domain, that the license to operate in such frequencies requires operation in the public interest, and that in newscasts, news interviews, news documentaries, on-the-spot coverage of news events, and panel discussions, all sides of public controversies shall be given as equal an opportunity to be heard as is practically possible."

The PRESIDING OFFICER. How much time does the Senator from Wisconsin yield to himself?

Mr. PROXMIRE. I yield myself as much time as may be necessary.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield to the Senator from Rhode Island.

Mr. PASTORE. I think I know the intent of the amendment of the Senator from Wisconsin. He is merely reiterating what we are trying to do by section 2 and also what we have done in the report, namely, that we abide by the philosophy, so far as standard of fairness is concerned.

But I do not like the use of the words "as equal an opportunity" in the last part of the Senator's amendment. I am afraid that that might be considered a repudiation of what we are trying to do by the exemptions. If the Senator will change the wording to "as fair an opportunity," with a clear understanding that this does not substantially defeat the purpose of the exemption, but merely expresses the philosophy that the media of radio and television are in the public domain, and that they must render, under the law, public service, and that wherever it is practical and possible the situations must bring to light all sides of a controversy in the public interest, I will accept the Senator's amendment and take it to conference.

In my opinion, the amendment is surplusage. I think we have already accomplished the purpose of the Senator's amendment. We have expressed it in the report. But if it will make the Senator happy to have the language in the bill, I will accept the amendment and take it to conference.

Mr. PROXMIRE. I appreciate the Senator's support in saying that he will accept the amendment under the circumstances. I am trying to protect all viewpoints in public controversies by providing them an equal opportunity.

Mr. PASTORE. A fair opportunity.

Mr. PROXMIRE. I make this point as to why I do not think the language is surplusage. While it is true that an excellect statement is made in the final four lines of section 2(b), on page 2, which read:

> Such recommendations at it deems necessary to protect the public interest and to assure equal treatment of all legally qualified candidates for public office under section 315 of the Communications Act of 1934.

I think that is excellent in the place where it occurs. But I feel very strongly that since this language will be effective for only 3 years, I therefore want it to be in the first section of the bill.

I appreciate the Senator's suggestion and further modify my amendment to eliminate the reference to panel discussions. The amendment was drafted before the amendment on panel discussions was adopted.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. HARTKE. Do I correctly understand that the Senator wants to have all sides of every issue discussed?

Mr. PASTORE. No; as I understand, the purpose of the amendment is to make certain that all sides shall be given as fair an opportunity to be heard as is practicably possible.

Mr. HARTKE. If a situation developed in which Lar Daly were a candidate for President and said he wanted his side, which was a part of one side, discussed, and raised the question with the Federal Communications Commission, under the Senator's amendment would he be entitled to an equal opportunity?

Mr. PROXMIRE. I am glad the Senator has raised that point, so that I can make my position more emphatic. The whole purpose of the bill is aimed at the situation which arose with the case of Lar Daly. If lines 5 to 9 in the bill have any meaning at all, they mean that a broadcaster is not required to give an opportunity to each legally qualified candidate. What the broadcaster should do is to consider all sides of public controversies, and make certain that not only the conservative, or not only the liberal viewpoints or ideas are expressed, but that the public has a chance to hear both sides, in fact all sides, and to be more specific so that this bill cannot be construed in any way to limit the responsibility of broadcasters to present all viewpoints, including the responsibility upon the appearances of qualified candidates on TV or radio.

Mr. HARTKE. Assume that in a presidential election there are the normal number of candidates from the Democratic and Republican Parties, and that, as before, there are 14 or 16 additional candidates, depending on whether we go back to 1952 or 1956. Would each of those particular parties be entitled to an equal opportunity or a fair opportunity to have its side expressed?

Mr. PROXMIRE. Emphatically, no.

Mr. PASTORE. What the Senator from Wisconsin is doing, as I understand, is appending to the amendment a statement of the philosophy that these media are in the public domain, and that where it is practically possible all sides shall be given a fair opportunity of exposure to the public.

Mr. PROXMIRE. The Senator is correct.

Mr. PASTORE. But it in no way infringes upon the exceptions which we have spelled out?

Mr. PROXMIRE. The Senator is correct.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. DOUGLAS. I congratulate the Senator from Wisconsin for his amendment. As I see it, the wording of the amendment puts into the act the declaration which the committee itself made on page 13 of its report, but it reinforces that declaration by making it a part of the statute, and hence binding, whereas the report is merely of a persuasive nature but is not controlling.

Mr. PROXMIRE. The Senator is exactly correct. The purpose is the same as expressed on page 13 of the committee report and is for the purpose which the Senator from Illinois has expressed it.

Mr. KEATING. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. KEATING. Mr. President, I congratulate the Senator upon the language which he has drafted. I have at the desk an amendment to come at the end of the entire section. The amendment reads as follows: *"Provided, however,* That such exemption shall apply only where the appearance of the legally qualified candidate is incidental to the presentation of news."

It strikes me that the purpose which the Senator from Wisconsin is seeking to accomplish is identical with the purpose which I intended by my amendment. My own amendment is a little shorter and has, perhaps, that merit. But I wanted to make a legislative history to indicate that the intention of the Senator from Wisconsin is similar to my previous intention in drafting this amendment.

Mr. PROXMIRE. The Senator from New York is correct. I think he is exactly right in saying that the amendment would express the purpose that it is when the appearance of a qualified candidate is incidental to the news that the exception would be maintained.

Mr. KEATING. Perhaps the Senator from Wisconsin was here when I outlined the problem of the Liberal Party in the State of New York. The Liberal Party has polled a substantial vote—4, 5, or 6 percent—in various recent elections.

Mr. PROXMIRE. I am very conscious of that particular problem. That is one of the reasons why I had this proposal in mind.

Mr. KEATING. The Senator did have that in mind?

Mr. PROXMIRE. I did, indeed.

Mr. KEATING. Does the Senator feel that the amendment which he has offered would be a protection of substantial significance to a minor party candidate?

Mr. PROXMIRE. The Senator is correct.

Mr. KEATING. I appreciate the Senator's statement. I will support his amendment and will not press further my amendment.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. HARTKE. Will the Senator from Wisconsin explain whether this can be a proper interpretation of section 315, when the amendment provides that all sides of the controversy shall be presented, and when section 315 itself does not go to all sides of a controversy, but has reference only to candidates?

In my own mind, I do not think the amendment deals with the subject matter and in no way clarifies it. In my opinion, it serves only to confuse the issue even further, because it will not provide an opportunity for a Liberal Party candidate to express his views, but only for the Liberal Party to make an exposition of its views.

Mr. PROXMIRE. That is the very point of my amendment. What I am trying to accomplish by my amendment is to permit equal opportunity to have candidates or persons speak in the public interest, so that controversial ideas can be heard by the public.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. JAVITS. I have been a candidate of the Liberal Party. I have run on the Republican and the Liberal Party tickets.

I think the Senator from Wisconsin is exactly correct, as my colleague from New York is correct. It is a fact that the Liberal Party actually issues a statement of principles or precise policies upon specific pieces of proposed legislation. It represents a point of view or a side on a public issue.

Even though a candidate runs on two tickets, as I did, he can subscribe to that point of view.

I believe that is what the Senator from Wisconsin is trying to accomplish within a practical sense. This is experimental.

In this debate we are really laying down the ground rules; and if we tried to be more specific, we really would be lost.

So I believe all of us will be wise to go along with the amendment of the Senator from Wisconsin.

Mr. PROXMIRE. I thank the Senator from New York.

Mr. CASE of South Dakota. Mr. President, will the Senator from Wisconsin yield to me?

The PRESIDING OFFICER (Mr. JORDAN in the chair). Does the Senator from Wisconsin yield to the Senator from South Dakota?

Mr. PROXMIRE. I yield.

Mr. CASE of South Dakota. Mr. President, the more we consider this matter, the more apparent it is that the committee has taken a wise approach to the problem.

I believe that all of us should carefully consider the public announcement which was issued by the Federal Communications Commission on October 1, 1958. It was entitled "Use of Broadcast Facilities by Candidates for Public Office." It states the law and the rules and definitions, and gives questions and answers in that connection.

Therefore, Mr. President, I ask unanimous consent that that public notice, issued by the Federal Communications Commission on October 1, 1958, be printed in full at this point in the RECORD.

There being no objection, the notice was ordered to be printed in the RECORD, as follows:

[FCC–58–936, Public Notice 63585, Oct. 1, 1958]

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C.

USE OF BROADCAST FACILITIES BY CANDIDATES FOR PUBLIC OFFICE (REVISED)

On September 8, 1954, the Commission issued a public notice (FCC–54–1155) entitled "Use of Broadcast Facilities by Candidates for Public Office." Experience has shown that this document has been of great assistance to candidates and broadcasters in understanding their rights and obligations under section 315 of the Communications Act of 1934, as amended. Since the above date, many interpretations of section 315 and of its rules have been issued by the Commission. These interpretations have been reviewed carefully; cumulative and repetitious rulings have not been reported while significant rulings have been added to this document. At the same time, a small number of editorial and other revisions have been made with respect to some of the interpretations previously issued.

The information contained herein does not purport to be a discussion of every problem that may arise in the political broadcast field. It is rather a codification of the determinations of the Commission with respect to the problems which have been presented to it and which appear likely to be involved in future campaigns. The purpose of this report is the clarification of licensee responsibility and course of action when situations discussed herein are encountered. In this way, resort to the Commission may be obviated in many instances, and time—which is of such importance in political campaigns—will be conserved. We do not mean to preclude inquiries to the Commission when there is a bona fide doubt as to a licensee's obligations under section 315. But it is believed that the following discussion will, in many instances, remove the need for such inquiries and that licensees will be able to take the necessary prompt action in these cases involving election campaigns in accordance with the interpretations and positions set forth below.

It is to be emphasized that this discussion relates solely to obligations of broadcast licensees under section 315 of the Communications Act and is not intended to treat with the wholly separate question of the treatment by broadcast licensees in the public interest of political or other controversial programs or discussions not falling within the specific provisions of that section. With respect to the responsibilities of broadcast stations for insuring fair and balanced presentation of programs not coming within section 315, but relating to important public issues of a controversial nature including political broadcasts, licensees are referred to the Commission's Report, "Editorializing by Broadcast Licensees" (vol. 1, pt. 3, R.R. 91–201) and the cases cited therein. In this respect it is particularly important that licensees recognize that the special obligations imposed upon them by the provisions of section 315 of the Communications Act with respect to certain types of political broadcasts do not in any way limit the applicability of general public interest concepts of political broadcasts not falling within the provisions of section 315 of the Communications Act. On the contrary, in view of the obvious importance of such programing to our system of representative Government it is clear that these precepts, as set forth in the report referred to above, are of particular applicability to such programing.

We have adopted a question-and-answer format as an appropriate means of delineating the section 315 problems. Wherever possible,[1] references to commission decisions or rulings are made so that the researcher may, if he desires, profit by the more thorough or expansive statement of the commission's position found in such decisions. Copies of rulings not otherwise available may be found in a "Political Broadcast" folder kept in the commission's public reference room. Citations in "R.R." refer to Pike and Fischer, Radio Regulations.

I. The statute: Section 315 of the Communications Act of 1934, as amended, provides as follows:

"SEC. 315. (a) If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: *Provided,* That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate.

"(b) The charges made for the use of any broadcasting station for any of the purposes set forth in this section shall not exceed the charges made for comparable use of such station for other purposes.

"(c) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section."

II. The Commission's rules and regulations with respect to political broadcasts: The Commission's rules and regulations with respect to political broadcasts coming within section 315 of the Communications Act are set forth in sections 3.120 (AM), 3.290 (FM), 3.590 (noncommercial educational FM), and 3.657 (TV), respectively. These provisions are identical (except for elimination of any discussion of charges in section 3.590 relating to noncommercial educational FM stations) and read as follows:

"Broadcasts by candidates for public office—(a) Definitions: A 'legally qualified candidate' means any person who has publicly announced that he is a candidate for nomination by a convention of a political party or for nomination or election in a primary, special, or general election, municipal, county, State or National, and who meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate, so that he may be voted for by the electorate directly or by means of delegates or electors, and who

"(1) Has qualified for a place on the ballot or

"(2) Is eligible under the applicable law to be voted for by sticker, by writing in his name on the ballot, or other method, and

"(i) Has been duly nominated by a political party which is commonly known and regarded as such, or

"(ii) Makes a substantial showing that he is a bona fide candidate for nomination or office, as the case may be.

"(b) General requirements: No station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all such other candidates for that office to use such facilities; provided, that such licensee shall

[1] A few of the questions taken up within have been presented to the commission informally—that is, through telephone conversations or conferences with station representatives. They are set out in this report because of the likelihood of their recurrence and the fact that no extended commission discussion is necessary to dispose of them; the answer in each case is clear from the language of sec. 315.

have no power of censorship over the material broadcast by any such candidate.

"(c) Rates and practices: (1) The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means direct or indirect. A candidate shall, in each case, be charged no more than the rate the station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office for which such person is a candidate. All discount privileges otherwise offered by a station to commercial advertisers shall be available upon equal terms to all candidates for public office.

"(2) In making time available to candidates for public office no licensee shall make any discrimination between candidates in charges, practices, regulations, facilities, or services for or in connection with the service rendered pursuant to this part, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

"(d) Records; inspection: Every licensee shall keep and permit public inspection of a complete record of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if request is granted. Such records shall be retained for a period of two years."

In addition, the attention of licensees is directed to the provisions of sections 3.119(b), 3.289(b) and 3.654(b) which provide in identical language:

"(b) In the case of any political program or any program involving the discussion of public controversial issues for which any records, transcriptions, talent, scripts, or other material or services of any kind are furnished, either directly or indirectly, to a station as an inducement to the broadcasting of such program, an announcement shall be made both at the beginning and conclusion of such program on which such material or services are used that such records, transcriptions, talent, scripts, or other material or services have been furnished to such station in connection with the broadcasting of such program: provided, however, that only one such announcement need be made in the case of any such program of five minutes' duration or less, which announcement may be made either at the beginning or the conclusion of the program."

III. Programs coming within section 315: In general, any use of broadcast facilities by a legally qualified candidate for public office, imposes an obligation on licensees to afford "equal opportunities" to all other such candidates for the same office.

"A. Types of uses:

"1. Q. Does section 315 apply to one speaking for or on behalf of the candidate, as contrasted with the candidate himself?

"A. No. The section applies only to legally qualified candidates. Candidate A has no legal right under section 315 to demand time where B, not a candidate, has spoken against A or in behalf of another candidate. (*Felix v. Westinghouse Radio Station*, 186 F. 2d 1, cert. den. 341 U.S. 909.)

"2. Q. Does section 315 confer rights on a political party as such?

"A. No. It applies in favor of legally qualified candidates for public office, and is not concerned with the rights of political parties, as such. (Letter to National Laugh Party, dated May 8, 1957.)

"3. Q. Does section 315 require stations to afford 'equal opportunities' in the use of their facilities in support of or in opposition to a public question to be voted on in an election?

"A. No. Section 315 has no application to the discussion of political issues, as such, but is concerned with the use of broadcast stations by legally qualified candidates for public office.

"B. What constitutes a 'use' of broadcast facilities entitling opposing candidates to 'equal opportunities'?

"4. Q. If a legally qualified candidate secures air time but does not discuss matters directly related to his candidacy, is this a use of facilities under section 315?

"A. Yes. Section 315 does not distinguish between the uses of broadcast time by a candidate, and the licensee is not authorized to pass on requests for time by opposing candidates on the basis of the licensee's evaluation of whether the original use was or was not in aid of a candidacy. (WMCA, Inc., 7 R. R. 1132.)

"5. Q. Must a broadcaster give equal time to a candidate whose opponent has broadcast in some other capacity than as a candidate?

"A. Yes. For example, a weekly report of a Congressman to his constituents via radio or television is a broadcast by a legally qualified candidate for public office as soon as he becomes a candidate for reelection, and his opponent must be given 'equal opportunities' for time on the air. Any 'use' of a station by a candidate, in whatever capacity, entitles his opponent to 'equal opportunities.' (Station KNGS, 7 R.R. 1130.)

"6. Q. If a candidate appears on a variety program for a very brief bow or statement, are his opponents entitled to 'equal opportunities' on the basis of this brief appearance?

"A. Yes. All appearances of a candidate, no matter how brief or perfunctory, are a 'use' of a station's facilities within section 315.

"7. Q. If a candidate is accorded station time for a speech in connection with a ceremonial activity or other public service, is an opposing candidate entitled to equal utilization of the station's facilities?

"A. Yes. Section 315 contains no exception with respect to broadcasts by legally qualified candidates carried 'in the public interest' or as a 'public service.' It follows that the station's broadcast of the candidate's speech was a 'use' of the facilities of the station by a legally qualified candidate giving rise to an obligation by the station under section 315 to afford 'equal opportunities' to other legally qualified candidates for the same office. (Letter to CBS (WBBM), dated October 31, 1952; Letter to KFI, dated October 31, 1952.)

"8. Q. If a station arranges for a debate between the candidates of two parties, or presents the candidates of two parties in a press conference format or so-called forum program, is the station required to make equal time available to other candidates?

"A. Yes. The appearance of candidates on the above types of programs constitutes a 'use' of the licensee's facilities by legally qualified candidates and, therefore, other candidates for the same office are entitled to 'equal opportunities.' (Letter to Harold Oliver, dated October 31, 1952; Letter to Julius F. Brauner, dated October 31, 1952.)

"9. Q. Are acceptance speeches by successful candidates for nomination for the candidacy of a particular party for a given office, a use by a legally qualified candidate for election to that office?

"A. Yes. Where the successful candidate for nomination becomes legally qualified as a candidate for election as a result of the nomination. (Progressive Party, 7 R. R. 1300.)

"10. Q. Does section 315 apply to broadcasts by a legally qualified candidate where such broadcasts originate and are limited to a foreign station whose signals are received in the United States?

"A. No. Section 315 applies only to stations licensed by the FCC. (Letter to Gregory Pillon, dated July 19, 1955.)

"11. Q. If a station owner, or a station advertiser, or a person regularly employed as a station announcer were to make any appearances over a station after having qualified as a candidate for public office, would section 315 apply?

"A. Yes. Such appearances of a candidate are a 'use' under section 315. (Letters to KUGN, dated April 9, 1958; KTTV, 14 R.R. 1227; and to Kenneth Spengler, 14 R.R. 1226b, respectively.)

"12. Q. When a station, as part of a newscast, uses film clips showing a legally qualified candidate participating as one of a group in official ceremonies and the newscaster, in commenting on the ceremonies, mentions the candidate and others by name and describes their participation, has there been a 'use' under section 315?

"A. No. Since the facts clearly showed that the candidate had in no way directly or indirectly initiated either filming or presentation of the event, and that the broadcast was nothing more than a routine newscast by the station in the exercise of its judgment as to newsworthy events." (Letter to Allen Blondy, 14 R.R. 1199.)

IV. Who is a legally qualified candidate?

"13. Q. How can a station know which candidates are 'legally qualified?'

"A. The determination as to who is a legally qualified candidate for a particular public office within the meaning of section 315 and the Commission's rules must be determined by reference to the law of the State in which the election is being held. In general, a candidate is legally qualified if he can be voted for in the State or district in which the election is being held, and, if elected, is eligible to serve in the office in question.

"14. Q. Need a candidate be on the ballot to be legally qualified?

"A. Not always. The term 'legally qualified candidate' is not restricted to persons whose names appear on the printed ballot; the term may embrace persons not listed on the ballot if such persons are making a bona fide race for the office involved and the names of such persons, or their electors can, under applicable law, be written in by voters so as to result in their valid election. The Commission recognizes, however, that the mere fact that any name may be written in does not entitle all persons who may publicly announce themselves as candidates to demand time under section 315; broadcast stations may make suitable and reasonable requirements with respect to proof of the bona fide nature of any candidacy on the part of applicants for the use of facilities under section 315. (§§ 3.120, 3.290, 3.657; Socialist Labor Party, 7 R.R. 766; Columbia Broadcasting System, Inc., 7 R.R. 1189; press release of November 26, 1941 (Mimeo 55732).)

"15. Q. May a station deny a candidate 'equal opportunities' because it believes that the candidate has no possibility of being elected or nominated?

"A. No. Section 315 does not permit any such subjective determination by the station with respect to a candidate's chances of nomination or election. (Columbia Broadcasting System, Inc., 7 R.R. 1189.)

"16. Q. May a person be considered to be a legally qualified candidate where he has made only a public announcement of his candidacy and has not yet filed the required forms or paid the required fees for securing a place on the ballot in either the primary or general elections?

"A. The answer depends on applicable State law. In some States persons may be

voted for by electorate whether or not they have gone through the procedures required for getting their names placed on the ballot itself. In such a State, the announcement of a person's candidacy—if determined to be bona fide—is sufficient to bring him within the purview of section 315. In other States, however, candidates may not be 'legally qualified' until they have fulfilled certain prescribed procedures. The applicable State laws and the particular facts surrounding the announcement of the candidacy are determinatives. (Letter to Senator Earle C. Clements, dated February 2, 1954.)

"17. Q. Must a station make time available upon demand to a candidate of the Communist Party, or a candidate who is a member of the Communist Party, if it has afforded time to that candidate's opponents for the office in question?

"A. If the person involved is a legally qualified candidate for the office he is seeking, section 315 requires that equal opportunities be afforded him. It will be recognized that who is a legally qualified candidate is dependent upon Federal, State, and local law pertaining to the elective process and is not based upon provision of the Communications Act or the rules of the Commission.

"The question of the specific applicability of these principles, in the light of the enactment of the Communist Control Act of 1954, to candidates of the Communist Party or who are members of the Communist Party has not yet been determined.

"18. Q. When is a person a legally qualified candidate for nomination as the candidate of a party for President or Vice President of the United States?

"A. In view of the fact that a person may be nominated for these offices by the conventions of his party without having appeared on the ballot of any State having presidential primary elections, or having any pledged votes prior to the convention, or even announcing his willingness to be a candidate, no fixed rule can be promulgated in answer to this question. Whether a person so claiming is in fact a bona fide candidate will depend on the particular facts of each situation, including consideration of what efforts, if any, he has taken to secure delegates or preferential votes in State primaries. It cannot, however, turn on the licensee's evaluation of the claimant's chances for success. (Letter of May 28, 1952 to Julius F. Brauner.)

"19. Q. Has a claimant under section 315 sufficiently established his legal qualifications when the facts show that after qualifying for a place on the ballot for a particular office in the primary he notified state officials of his withdrawal therefrom and then later claimed he had not really intended to withdraw, and where the facts further indicated that he was supporting another candidate for the same office and was seeking the nomination for an office other than the one for which he claimed to be qualified?

"A. No. Where a question is raised concerning a claimant's legal qualification, it is incumbent on him to prove that he is in fact legally qualified. The facts here did not constitute an unequivocal showing of legal qualification. (Letter to Lar Daly, dated April 11, 1956; letter to American Vegetarian Party, dated November 6, 1956.)

"20. Q. If a candidate establishes his legal qualifications only after the date of nomination or election for the office for which he was contending, is he entitled to equal opportunities which would have been available had he timely qualified?

"A. No, for once the date of nomination or election for an office has passed it cannot be said that one who failed timely to qualify therefore is still a 'candidate.' The holding of the primary or general election terminates the possibility of affording 'equal opportunities,' thus mooting the question of what rights the claimant might have been entitled to under section 315 before the election. (Letter to Socialist Workers' Party, dated December 13, 1956; letter to Lar Daly, 14 R. R. 713, appeal sub. nom. *Daly v. U.S., Case No. 11,946* (C. A. 7th Cir.) dismissed as moot Mar. 7, 1957; cert. den. 355 U.S. 826.)

"21. Q. Under the circumstances stated in the preceding question, is any post-election remedy available to the candidate, before the Commission, under section 315?

"A. None, insofar as a candidate may desire retroactive 'equal opportunities.' But this is not to suggest that a station can avoid its statutory obligation under section 315 by waiting until an election has been held and only then disposing of demands for 'equal opportunities.' Idem.

"22. Q. When a state Attorney General or other appropriate state official having jurisdiction to decide a candidate's legal qualification has ruled that a candidate is not legally qualified under local election laws, can a licensee be required to afford such 'candidate' 'equal opportunities' under section 315?

"A. In such instances, the ruling of the state Attorney General or other official will prevail, absent a judicial determination. (Telegram to Ralph Muncy, November 5, 1954; letter to Socialist Workers' Party, dated November 23, 1956.)"

V. When are candidates opposing candidates?

"23. Q. What public offices are included within the meaning of section 315?

"A. Under the Commission's rules, section 315 is applicable to both primary and general elections, and public offices include all offices filled by special or general election on a municipal, county, state or national level as well as the nomination by any recognized party of a candidate for such an office.

"24. Q. May the station under section 315 make time available to all candidates for one office and refuse all candidates for another office?

"A. Yes. The 'equal opportunities' requirement of section 315 is limited to all legally qualified candidates for the same office.

"25. Q. If the station makes time available to candidates seeking the nomination of one party for a particular office, does section 315 require that it make equal time available to the candidates seeking the nomination of other parties for the same office?

"A. No, the Commission has held that while both primary elections or nominating conventions and general elections are comprehended within the terms of section 315, the primary elections or conventions held by one party are to be considered separately from the primary elections or conventions of other parties, and, therefore, insofar as section 315 is concerned, 'equal opportunities' need only be afforded legally qualified candidates for nomination for the same office at the same party's primary or nominating convention. (KWFT, Inc., 4 R.R. 885; Letter to Arnold Petersen, 11 R. R. 234; Letter to WCDL, April 3, 1953.)

"26. Q. If the station makes time available to all candidates of one party for nomination for a particular office, including the successful candidate, may candidates of other parties in the general election demand an equal amount of time under section 315?

"A. No. For the reason given above. (KWFT, Inc., 4. R. R. 885)."

VI. What constitutes equal opportunities?

"27. Q. Generally speaking, what constitutes 'equal opportunities'?

"A. Under section 315 and §§ 3.120, 3.290, and 3.657 of the Commission's rules, no licensee shall make any discrimination in charges, practices, regulations, facilities, or services rendered to candidates for a particular office.

"28. Q. Is a licensee required or allowed to give time free to one candidate where it had sold time to an opposing candidate?

"A. The licensee is not permitted to discriminate between the candidates in any way. With respect to any particular election it may adopt a policy of selling time, or of giving time to the candidates free of charge, or of giving them some time and selling them additional time. But whatever policy it adopts it must treat all candidates for the same office alike with respect to the time they may secure free and that for which they must pay.

"29. Q. Is a station's obligation under section 315 met if it offers a candidate the same amount of time an opposing candidate has received, where the time of the day or week afforded the first candidate is superior to that offered his opponent?

"A. No. The station in providing 'equal opportunities' must consider the desirability of the time segment allotted as well as its length. And while there is no requirement that a station afford candidate B exactly the same time of day on exactly the same day of the week as candidate A, the time segments offered must be comparable as to desirability.

"30. Q. If candidate A has been offered time during the early morning, noon and evening hours, does a station comply with section 315 by offering candidate B time only during early morning and noon periods?

"A. No. However, the requirements of comparable time do not require a station to make available exactly the same time periods, nor the periods requested by candidate B. (Letter to D. L. Grace, dated July 3, 1958.)

"31. Q. Is it necessary for a station to advise a candidate or a political party that time has been sold to other candidates?

"A. No. The law does not require that this be done. If a candidate inquires, however, the facts must be given him. It should be noted here that a station is required to keep a public record of all requests for time by or on behalf of political candidates, together with a record of the disposition and the charges made, if any, for each broadcast. (§§ 3.120(d), 3.290(d), 3.657(d).)

"32. Q. If a station offers free time to opposing candidates and one candidate declines to use the time given him, are other candidates for that office foreclosed from availing themselves of the offer?

"A. No. The refusal of one candidate does not foreclose other candidates wishing to use the time offered. However, whether the candidate initially declining the offer could later avail himself of 'equal opportunities' would depend on all the facts and circumstances. (Letter to Leonard Marks, 14 R.R. 65.)

"33. Q. If one political candidate buys station facilities more heavily than another, is a station required to call a halt to such sales because of the resulting imbalance?

"A. No. Section 315 requires only that all candidates be afforded 'equal opportunities' to use the facilities of the station. (Letter to Mrs. M. R. Oliver, 11 R.R. 239.)

"34. Q. If the candidate has received free time for a period of time and subsequently a second candidate announces his candidacy, is the second candidate entitled to equal facilities retroactive to the date when the first candidate announced his candidacy?

"A. Normally, yes. Once the station has made time available to one qualified candidate, its obligation to provide equal facilities to future candidates begins. A candidate cannot, however, delay his request for time and expect to use the 'equal opportunities' provision to force a station to turn over most of the last few preelection days to him in order to 'saturate' preelection broadcast time. (Letter to Congressman Hunter, dated May 28, 1952; letter to Congressman FRELINGHUYSEN, 11 R.R. 245.)

"35. Q. If a station has a policy of confining political broadcasts to sustaining time, but has so many requests for political time that it cannot handle them all within its sustaining schedule, may it refuse time to a candidate whose opponent has already been granted time, on the basis of its established policy of not canceling commercial programs in favor of political broadcasts?

"A. No. The station cannot rely upon its policy if the latter conflicts with the 'equal opportunities' requirement of section 315. (Stephens Bctg. Co., 3 R.R. 1.)

"36. Q. If one candidate has been nominated by Parties A, B, and C, while a second candidate for the same office is nominated only by Party D, how should time be allocated as between the two candidates?

"A. Section 315 has reference only to the use of facilities by persons who are candidates for public office and not to the political parties which may have nominated such candidates. Accordingly, if broadcast time is made available for the use of a candidate for public office, the provisions of section 315 require that 'equal opportunities' be afforded each person who is a candidate for the same office, without regard to the number of nominations that any particular candidate may have. (Letter to Thomas W. Wilson, dated October 31, 1946.)

"37. Q. If a station broadcasts a program sponsored by a commercial advertiser which includes one or more qualified candidates as speakers or guests, what are its obligations with respect to affording 'equal opportunities' to other candidates for the same office?

"A. If candidates are permitted to appear without cost to themselves, on programs sponsored by commercial advertisers, opposing candidates are entitled to receive comparable time, also at no cost. (Letter to Senator MONRONEY, 11 R. R. 451.)

"38. Q. Where a candidate for office in a state or local election appears on a national network program, is an opposing candidate for the same office entitled to equal facilities over stations which carried the original program and serve the area in which the election campaign is occurring?

"A. Yes. Under such circumstances an opposing candidate would be entitled to time on such stations. (Letter to Senator MONRONEY, dated October 9, 1952.)

"39. Q. Where a candidate appears on a particular program—such as a regular series of forum programs—are opposing candidates entitled on demand to appear on the same program?

"A. Not necessarily. The mechanics of the problem of 'equal opportunities' must be left to resolution of the parties. And while factors such as the size of the potential audience because of the appearance of the first candidate on an established or popular program might very well be a matter for consideration by the parties, it cannot be said, in the abstract, that 'equal opportunities' could only be provided by giving opposing parties time on the same program. (Letter to Harold Oliver, dated October 31, 1952; Letter to Julius F. Brauner, dated October 31, 1952.)

"40. Q. Where a station asks candidates A and B (opposing candidates in a primary election) to appear on a debate-type program, the format of which is determined by the station but with no restrictions as to what issues or matters might be discussed, and candidate A accepts the offer and appears on the program and candidate B declines to appear on the program, is candidate B entitled to further 'equal opportunities' in the use of the station's facilities within the meaning of section 315 of the act? If so, is any such obligation met by offering candidate B, prior to the primary, an opportunity to appear on a program of comparable format to that on which candidate A appeared, or is the station obligated to grant candidate B equal time to that used by candidate A on the program in question unrestricted as to format?

"A. Since the station's format was reasonable in structure and the station put no restrictions on what matters and issues might be discussed by candidate B and others who appeared on the program in question, it offered candidate B 'equal opportunities' in the use of its facilities within the meaning of section 315 of the act. The station's further offer to candidate B, prior to the primary, of its facilities on a 'comparable format' was reasonable under the facts of the case, consistent with any continuing obligation to afford candidate B 'equal opportunities' in the use of the station which he may have had. (Letter to Congressman BOB WILSON, dated Aug. 1, 1958.)

"41. Q. In affording 'equal opportunities', may a station limit the use of its facilities solely to the use of a microphone?

"A. A station must treat opposing candidates the same with respect to the use of its facilities and if it permits one candidate to use facilities over and beyond the microphone, it must permit a similar usage by other qualified candidates. (Letter to D. L. Grace, dated July 3, 1953.)

"42. Q. Can a station contract with the committee of a political party whereby it commits itself in advance of an election to furnish substantial blocks of time to the candidates of that party?

"A. Neither section 315 nor the Commission's rules prohibit a licensee from contracting with a party for reservation of time in advance of an election. However, substantial questions as to a possible violation of section 315 would arise if the effect of such prior commitment were to disable a licensee from meeting its 'equal opportunities' obligations under section 315." (Letter to Congressman KARSTEN, dated Nov. 25, 1955.)

VII. What limitations can be put on the use of facilities by a candidate?

"43. Q. May a station delete material in a broadcast under section 315 because it believes the material contained therein is or may be libelous?

"A. No. Any such action would entail censorship which is expressly prohibited by section 315 of the Communications Act. (Port Huron Bctg. Co., 4 R.R. 1; WDSU Bctg. Co., 7 R.R. 769.)

"44. Q. If a legally qualified candidate broadcasts libelous or slanderous remarks, is the station liable therefor?

"A. In Port Huron Bctg. Co., 4 R.R. 1, the Commission expressed an opinion that licensees not directly participating in the libel might be absolved from any liability they might otherwise incur under state law, because of the operation of section 315, which precludes them from preventing a candidate's utterances. In two recent decisions, the courts have agreed with the Commission's holding in the Port Huron case, holding that since a licensee could not censor a broadcast under section 315, Congress could not have intended to compel a station to broadcast libelous statements of a legally qualified candidate and, at the same time, subject itself to the risk of damage suits. (*Farmers Educational & Cooperative Union of America* v. *WDAY, Inc.*, — N.D. —, 89 N.W. 2d 102 (Petition for cert. filed); *Lamb* v. *Sutton*, — Fed. Supp. — (D.C. Tenn., 1958.)

"45. Q. Does the same immunity apply in a case where the Chairman of a political party's campaign committee, not himself a candidate, broadcasts a speech in support of a candidate?

"A. No. Licensees 'are, therefore, not entitled to assert the defense that they are not liable because the speeches could not have been censored without violating section 315 and that accordingly they were not at fault in permitting the speeches to be broadcast.' (*Felix* v. *Westinghouse Radio Stations*, 186 F. 2d 1, cert. den. 341 U.S. 909.)

"46. Q. If a candidate secures time under section 315, must he talk about a subject directly related to his candidacy?

"A. No. The candidate may use the time as he deems best. To deny a person time on the ground that he was not using it in furtherance of his candidacy would be an exercise of censorship prohibited by section 315 (WMCA, Inc., 7 R.R. 1132).

"47. Q. If a station makes time available to an officeholder who is also a legally qualified candidate for reelection and the officeholder limits his talks to nonpartisan and informative material, may other legally qualified candidates who obtain time be limited to the same subjects or the same type of broadcast?

"A. No. Other qualified candidates may use the facilities as they deem best in their own interest. (Letter to Congressman Allen Oakley Hunter, 11 R.R. 234.)

"48. Q. May a station require an advance script of a candidate's speech?

"A. Yes; provided that the practice is uniformly applied to all candidates for the same office using the station's facilities, and the station does not undertake to censor the candidate's talk. (Letter to H. A. Rosenberg, Louisville, Ky., 11 R.R. 236.)

"49. Q. May a station have a practice of requiring a candidate to record his proposed broadcast at his own expense?

"A. Yes. Provided again that the procedures adopted are applied without discrimination as between candidates for the same office and no censorship is attempted." (Letter to H. A. Rosenberg, Louisville, Ky., 11 R. R. 236.)

VIII. What rates can be charged candidates for programs under section 315?

"50. Q. May a station charge premium rates for political broadcasts?

"A. No. Section 315, as amended, provides that the charges made for the use of a station by a candidate 'shall not exceed the charges made for comparable use of such stations for other purposes.'

"51. Q. Does the requirement that the charges to a candidate 'shall not exceed the charges for comparable use' of a station for other purposes apply to political broadcasts by persons other than qualified candidates?

"A. No. This requirement applies only to candidates for public office. Hence, a station may adopt whatever policy it desires for political broadcasts by organizations or persons who are not candidates for office, consistent with its obligation to operate in the public interest. (Letter to Congressman DIGGS, Jr., dated March 16, 1955.)

"52. Q. May a station with both 'national' and 'local' rates charge a candidate for local office its 'national' rate?

"A. No. Under § § 3.120, 3.290 and 3.657 of the Commission's rules a station may not charge a candidate more than the rate the station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that within which persons may vote for the particular office for which such person is a candidate.

"53. Q. Considering the limited geographical area which a Member of the House of Representatives serves, must candidates for the House be charged the 'local' instead of the 'national' rate?

"A. This question cannot be answered categorically. To determine the maximum rates which could be charged under section 315, the Commission would have to know the criteria a station uses in classifying 'local' versus 'national' advertisers before it could determine what are 'comparable charges.' In making this determination, the Commission does not prescribe rates but merely requires equality of treatment as between 315 broadcasts and commercial advertising. (Letter to Congressman SIMPSON, dated Feb. 27, 1957.)

"54. Q. Is a political candidate entitled to receive discounts?

"A. Yes. Under §§ 3.120, 3.290 and 3.657 of the Commission's rules political candidates are entitled to the same discounts that would be accorded persons other than candidates for public office under the conditions specified, as well as to such special discounts for programs coming within section 315 as the station may choose to give on a nondiscriminatory basis.

"55. Q. Can a station refuse to sell time at discount rates to a group of candidates for different offices who have pooled their resources to obtain a discount, even though as a matter of commercial practice, the station permits commercial advertisers to buy a block of time at discount rates for use by various businesses owned by a single advertiser?

"A. Yes. Section 315 specifically provides that a station need not permit the use of its facilities by candidates, and neither that section nor the Commission's rules require a station to sell time to a group of candidates on a pooled basis, even though such may be the practice with respect to commercial advertisers. (Letter to WKBT-WKBH, dated Oct. 14, 1954.)

"56. Q. If candidate A purchases ten time segments over a station which offers a discount rate for purchase of that amount of time, is candidate B entitled to the discount rate if he purchases less time than the minimum to which discounts are applicable?

"A. No. A station is under such circumstances only required to make available the discount privileges to each legally qualified candidate on the same basis.

"57. Q. If a station has a 'spot' rate of two dollars per 'spot' announcement, with a rate reduction to one dollar if 100 or more such 'spots' are purchased on a bulk time sales contract, and if one candidate arranges with an advertiser having such a bulk time contract to utilize five of these spots at the one dollar rate, is the station obligated to sell the candidates of other parties for the same office time at the same one dollar rate?

"A. Yes. Other legally qualified candidates are entitled to take advantage of the same reduced rate. (Letter to Senator MONRONEY, dated October 16, 1952.)

"58. Q. Where a group of candidates for different offices pool their resources to purchase a block of time at a discount, and an individual candidate opposing one of the group seeks time on the station, to what rate is he entitled?

"A. He is entitled to be charged the same rate as his opponent since the provisions of section 315 run to the candidates themselves and they are entitled to be treated equally with their individual opponents. (Report and Order, Docket 11092, 11 R.R. 1501.)

"59. Q. Is there any prohibition against the purchase by a political party of a block of time for several of its candidates, for allocation among such candidates on the basis of personal need, rather than on the amount each candidate has contributed to the party's campaign fund?

"A. There is no prohibition in section 315 or the Commission's rules against the above practices. It would be reasonable to assume that the group time used by a candidate is, for the purposes of section 315, time paid for by the candidate through the normal device of a recognized political campaign committee, even though part of the campaign funds was derived from sources other than the candidates' contributions. (Letter to Edward de Grazia, dated Oct. 14, 1954.)

"60. Q. When a candidate and his immediate family own all the stock in a corporate licensee and the candidate is the president and general manager, can he pay for time to the corporate licensee from which he derives his income and have the licensee make a similar charge to an opposing candidate?

"A. Yes. The fact that a candidate has a financial interest in a corporate licensee does not affect the licensee's obligation under section 315. Thus, the rates which the licensee may charge to other legally qualified candidates will be governed by the rate which the stockholder candidate actually pays to the licensee. If no charge is made to the stockholder candidate, it follows that other legally qualified candidates are entitled to equal time without charge." (Letter to Charles W. Stratton, dated Mar. 18, 1957.)

IX. Issuance of interpretations of section 315 by the Commission.

"61. Q. Under what circumstances will the Commission consider issuing declaratory orders, interpretive rulings or advisory opinions with respect to section 315?

"A. Section 5(d) of the Administrative Procedure Act, Title 5, U.S.C.A., provides that 'The agency is authorized in its sound discretion, with like effect as in the case of other orders, to issue a declaratory order to terminate a controversy or remove uncertainty.' However, agencies are not required to issue such orders merely because a request is made therefor. The grant of authority to agencies to issue declaratory orders is limited, and such orders are authorized only with respect to matters which are required by statute to be determined 'on the record after opportunity for an agency hearing.' See Attorney General's Manual on the Administrative Procedure Act, pp. 59, 60; also, In re Goodman, 4 Pike & Fischer R.R. 98. In general, the Commission limits its interpretive rulings or advisory opinions to situations where the critical facts are explicitly stated without the possibility that subsequent events will alter them. Rather, it prefers to issue such rulings or opinions where the specific facts of a particular case in controversy are before it for decision." (Letter to Pierson, Ball & Dowd, dated June 18, 1958.)

Mr. ENGLE. Mr. President, will the Senator from Wisconsin yield to me?

Mr. PROXMIRE. I yield.

Mr. ENGLE. The amendment of the Senator from Wisconsin, as first submitted, included the words "and panel discussions." However, I now understand that the Senator from Wisconsin desires to strike those words from his amendment.

Mr. PROXMIRE. That is correct. I have already requested that the words "and panel discussions" be deleted from the amendment.

The PRESIDING OFFICER. The amendment of the Senator from Wisconsin will be modified accordingly.

Mr. LONG. Mr. President, will the Senator from Wisconsin yield to me?

Mr. PROXMIRE. I yield.

Mr. LONG. I hope the pending amendment has the same purpose as that of an amendment which I have at the desk. My amendment would add the words "on a basis which is not unreasonably discriminatory." I had in mind that the news treatment by a television station should not be limited to one candidate when he was making news, as against another candidate who might also be making some news—having in mind that one event might be regarded as newsworthy and the other event might not, but that at least there should be on the television station the burden and the duty of being fair in that connection.

I take it that is the position of the Senator from Wisconsin, in connection with his amendment.

Mr. PROXMIRE. Yes; and I think the words used by the Senator from Louisiana are proper and correct, and properly express the intent of this amendment.

Mr. President, I yield the floor.

Mr. PASTORE. Mr. President, I understand the amendment to be a statement or codification of the standards of fairness. I understand that the Commission is now obliged by existing law and policy to abide by the standards of fairness.

I repeat that I consider the amendment to be rather surplusage; but I shall accept the amendment and shall take it to conference, if it means to emphasize the objective which all of us desire to accomplish.

Mr. DOUGLAS. Mr. President, will the Senator from Wisconsin yield to me?

Mr. PROXMIRE. I yield.

Mr. DOUGLAS. Let me say that I appreciate the fairness of the Senator from Rhode Island. I was only disconcerted by his use of the sentence "I will take it to conference," because that is a colloquialism which, when used in the Senate, frequently means that the throat of the amendment will be cut in conference. I am sure the Senator from Rhode Island did not use those words in that sense.

Mr. PASTORE. The Senator from Rhode Island will never cut the throat of anything that is against evil; and this amendment is against evil.

Mr. HARTKE. Mr. President, will the Senator from Rhode Island yield to me?

Mr. PASTORE. I yield.

Mr. HARTKE. As I understand, this amendment does not deal with candidates, but deals with the general purpose and interpretation of the Communications Act itself.

Mr. PASTORE. That is correct; the amendment has nothing to do with legally qualified candidates, but is merely a requirement that broadcasters shall live and shall abide by the rule of fairness in connection with all controversial issues, so as to bring them, insofar as possible, fairly to the attention of the public as a whole. Of course that is the law today.

The PRESIDING OFFICER. Does the Senator from Rhode Island yield back the remainder of the time under his control?

Mr. PASTORE. I do.

Mr. PROXMIRE. Mr. President, I do likewise.

The PRESIDING OFFICER. The question is on agreeing to the modified amendment of the Senator from Wisconsin [Mr. PROXMIRE]. [Putting the question.]

The amendment, as modified, was agreed to, as follows:

On page 1, in line 9, after the period, insert a comma and the following: "but nothing in this sentence shall be construed as changing the basic intent of Congress with respect to the provisions of this Act, which recognizes that television and radio frequencies are in the public domain, that the license to operate in such frequencies requires operation in the public interest, and that in newscasts, news interviews, news documentaries, on-the-spot coverage of news events, all sides of public controversies shall

be given as fair an opportunity to be heard as is practically possible."

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2424) was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the proponents have 11 minutes remaining, and the opponents have 30 minutes remaining.

Mr. PASTORE. Mr. President, I yield back all time remaining under my control.

Mr. SCHOEPPEL. I do likewise, Mr. President.

The PRESIDING OFFICER. All remaining time on the bill has been yielded back.

The question is, Shall the bill pass?

The bill (S. 2424) was passed.

Mr. MANSFIELD. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. PASTORE. Mr. President, I move to lay on the table the motion to reconsider.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

SAFEGUARDS RELATIVE TO ACCUMULATION AND DISPOSITION OF CERTAIN BENEFITS IN THE CASE OF INCOMPETENT VETERANS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 337, House bill 6319. I wish to have the bill made the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H.R. 6319) to amend chapter 55 of title 38, United States Code, to establish safeguards relative to the accumulation and final disposition of certain benefits in the case of incompetent veterans.

The PRESIDING OFFICER. The question is on agreeing to the request of the Senator from Montana. Is there objection?

There being no objection, the Senate proceeded to consider the bill.

KINCHELOE AIR FORCE BASE

Mr. McNAMARA. Mr. President, today I was informed by the Air Force that Kinross Air Force Base, at Kinross, Mich., will be redesignated as Kincheloe Air Force Base.

This is in honor of the late Capt. Iven C. Kincheloe, Jr., a native of Detroit, who, at the time of his death, was one of the Nation's outstanding test pilots.

Captain Kincheloe met his death in the performance of his duties, while piloting an F-104 jet aircraft in a test operation on July 26, 1958. His service to his country can never be fully rewarded; but I am pleased that it is recognized.

Captain Kincheloe was the recipient of the Silver Star, the Distinguished Flying Cross, and the Air Medal; and he was posthumously awarded the Legion of Merit.

Now, with the redesignation of this air base as Kincheloe Air Force Base, his name will continue to live and be honored in the Air Force and in the Nation.

TWELVE NEWSMEN AT WHITE HOUSE DINNER SAY "MUM'S THEIR WORD"

Mr. MONRONEY. Mr. President, Washington, D.C., has long been the mecca of all the smart young students who have stardust in their eyes and dream of becoming future big-name newspapermen.

This morning, in the Washington Post and Times Herald, I was amazed to read that our very, very big name journalists who write the byline top news and columns from Washington, and who can rightfully claim to be the postgraduates magna cum laude in this league, flunked miserably as news sources. [Laughter.]

When we find Lyle Wilson, bureau chief of United Press International; Arthur Krock, famed columnist of the New York Times; Roscoe Drummond, columnist; William Beale, bureau chief of the Associated Press; David Lawrence, columnist and news magazine publisher; Andrew Tully, of the Scripps-Howard newspapers; and other "supermen" in covering news becoming awkwardly speechless when asked simple questions by other newsmen, something is sadly off the track in our Washington school of journalism. [Laughter.]

As news sources endeavoring to evade legitimate questions by legitimate newspapermen, they excelled the worst lieutenant colonel in the PRO section of the Pentagon. [Laughter.]

Even an alderman in Chicago could have evaded answers with more aplomb and dignity than did that old fire-eater in cross-examining politicians, Mr. Lyle Wilson. [Laughter.]

Imagine that old exposer of malfunctioning in all branches of Government using such an old dodge as "No comment." That came from Andrew Tully. And Mr. Beale, wrapping his white dinner jacket about his body like a saintly robe, was heard to say: "They told us not to talk." [Laughter.]

It remained for the erudite Mr. Krock, however, to say more and still say less than the others. The headline, if any, by Mr. Krock was "It was a dinner in a gentleman's home, that's all. Just general conversation." [Laughter.]

Perhaps the first chapter of the new Washington book on journalism will have to be rewritten as a result of the White House dinner for the "dignified dozen," as follows:

Do not tell who. Do not tell what. Do not tell why. If where and when are visible to the naked eyes, do not corroborate.

[Laughter.]

As an old alumnus of Sigma Delta Chi, professional journalistic society, which has raised sand at secrecy in government at all levels, and as a great admirer of the American Society of Newspaper Editors which has gone to court to open up the news channels even to the rank and file of newspapermen, I doff my hat to the beloved "teacher" of the Washington journalism class.

Few journalism teachers have had such privileged sanctuary from inquisitive students as has that irrepressible, beloved old mentor, Uncle Jim Hagerty, the President's press chief. [Laughter.]

It remained for the dean of student corps, David Lawrence, columnist and magazine publisher, to "break the news" of why those writers could not "break the news." Said he: "See Jim Hagerty. He is the one to see. He got together with them—the newspaper guests—afterward, and went over what they could use and what they could not use." [Laughter.]

At least the Washington Post has not been completely "sold" on all the new theories of the new Washington school of journalism. Its reporter managed to come up with 10 names of the 12 newspapermen who attended last night's commencement exercises and dinner with President Eisenhower. An 11th was mentioned, a man who gave his name as John Doe. But as an ex-newspaperman of the old school, I do not count that one. [Laughter.]

I ask unanimous consent to place in the RECORD the Washington Post account of the White House dinner and the Post's report calling it "the shyest, most taciturn band of newspapermen in the history of journalism."

I also ask that the Washington journalism class—the majority of 11—have mercy on one, reputed to be Douglas Edwards, of CBS, who broke down and actually told a fact, that the newsmen were served chicken. [Laughter.]

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 28, 1959]

IKE HAS 12 NEWSMEN AS GUESTS AT DINNER BUT MUM'S THEIR WORD

What was probably the shyest, most taciturn band of newspapermen in the history of journalism walked out of the White House at 11:20 last night.

They had been President Eisenhower's guests at a chicken dinner. They had talked to the Chief Executive about a wide range of subjects, foreign and domestic.

It had been no secret that the dinner was to take place. A partial list of the journalist-guests had been published.

Nevertheless, some of the newspapermen, interviewed as they came through the White House gate, would not acknowledge that they had been to dinner with the President. For that matter, some would not give their names—except that one of the select news disseminators said he was John Doe.

Less coy was Arthur Krock, noted columnist of the New York Times, who talked courteously to a reporter without violating any of the rules that were imposed on the guests in advance.

"Did you gentlemen have dinner with the President?" Krock was asked.

"Yes," he replied, "your paper reported it this morning."

"Who was there?"